Supreme Court, U.S.
FILED

No. 10-819 DEC 15 2010

OFFICE OF THE CLERK
William K. Suter, Clerk

In The
SUPREME COURT OF THE UNITED STATES

**HARMON L. TAYLOR, et al.,**
Plaintiff-Appellant-Petitioner,

v.

**BARBARA HALE, et al.,**
Defendants-Appellees-Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

# ORIGINAL PETITION FOR A WRIT OF CERTIORARI

WITH APPENDICES A, B, AND C

HARMON L. TAYLOR
7014 MASON DELLS DRIVE
DALLAS, TEXAS 75230

## Questions Presented

### Signature authority—trial court

1. May the district court compel Taylor to consent to magistrate participation?

2. Does an unconsented-to magistrate have signature authority?

3. Where the "judge" has acted in accord with the objection, is he estopped from "bulldozing" it later?

### Statutory Challenges – Local Rules

4. Does the "Consent to Proceed" form, which focuses solely on § 636(c), violate Due Process?

5. Does ND TX R. 16.2 violate Due Process?

6. Does Special Order No. 3-251 violate Due Process?

7. Does Miscellaneous Order No. 6, as supplemented by Special Order 2-59, violate Due Process?

### Placing Responsibility

8. May the clerk be authorized to refuse to file unjustified "referral" "orders" and/or "orders" from unconsented-to magistrates?

9. On remand, should LINDSAY participate?

**More Statutory Challenges**

10. What does "transportation" mean?

11. What does "vehicle" mean?

12. What does "motor vehicle" mean?

13. What does "drive" mean?

14. What does "operator" mean?

15. What does "this state" mean?

16. What does "any proceeding" mean?

17. What does "trial *de novo*" mean?

18. What does "commenced" mean?

19. Does § 521.021 define an offense?

**Immunity for criminal conduct?**

20. Is HALE lawfully dismissed from this case?

21. Is WEEKS lawfuliy dismissed from this case?

22. Is GAINES lawfully dismissed from this case?

23. Is CITY lawfully dismissed from this case?

24. Is COUNTY lawfully dismissed from this case?

25. Is STATE lawfully dismissed from this case?

**Costs for service**

26. Is STATE liable to Taylor for the (additional) costs for service?

## Parties

**Appellant – Petitioner**

HARMON LUTHER TAYLOR and Harmon Luther Taylor

**Appellees – Respondents**

BARBARA HALE and Barbara Hale
DAVID P. WEEKS and David P. Weeks
WALKER COUNTY, TEXAS, and Walker County, Texas

DAVID R. WOODWARD
Cobb Martinez Woodward PLLC
1700 Pacific Avenue, Suite 4545
Dallas, TX 75201
(HALE, WEEKS, COUNTY)

JOHN GAINES and John Gaines
CITY OF HUNTSVILLE, TEXAS, and City of Huntsville, Texas

STEVEN D. SELBE
Gordon & Rees, LLP
3D/International Tower
1900 West Loop South, Suite 1000
Houston, TX 77027
(GAINES, CITY)

STATE OF TEXAS

DEMETRI ANASTASIADIS
AG's Office
P.O. Box 12548
Austin, TX 78711-2548

## Table of Contents


Questions Presented ..... i

Parties ..... iv

Table of Authorities ..... xi

Petition for a Writ of Certiorari ..... 1

Citations to decisions below ..... 1

Jurisdiction ..... 1

Oral Argument is Available ..... 1

Statement of the Case ..... 1

Trial Court Jurisdiction ..... 1

"Travel" v. "Transportation" ..... 2

Judicial Notice ..... 3

State courts. ..... 3

Federal courts. ..... 3

Capacity ..... 3

The ticket for "no driver's license" ..... 4

In the municipal court ..... 5

In the county court ..... 7

*See* 18 U.S.C. §§ 241 and 242. ..... 7

Presumption of guilt. ..... 7

The shake down. ..... 8

Regarding the 20-page Transcript. ..... 9

Regarding the pre-trial appeal ..... 9
The fraudulently induced non-appearance .... 10

Signature authority—federal trial court ..... 12
Compelled consent to magistrate participation. ..... 12

Statutory Challenges – ND TX Local Rules ..... 12
The "Consent to Proceed" form. ..... 12
Certain local rules. ..... 12

Placing Responsibility ..... 13
MITCHELL. ..... 13
LINDSAY. ..... 13

Costs for Service ..... 13

Argument ..... 14

Signature authority—trial court ..... 14

1. May the district court compel Taylor to consent to magistrate participation? ..... 14

2. Does an unconsented-to magistrate have signature authority? ..... 14

3. Where the "judge" has acted in accord with the objection, is he estopped from "bulldozing" it later? ..... 14

Statutory Challenges – Local Rules ..... 14

4. Does the "Consent to Proceed" form, which focuses solely on § 636(c), violate Due Process? ..... 14

5. Does ND TX R. 16.2 violate Due Process?..... 14

6. Does Special Order No. 3-251 violate Due Process?..... 15

7. Does Miscellaneous Order No. 6, as supplemented by Special Order 2-59, violate Due Process?..... 15

Placing Responsibility..... 15

8. May the clerk be authorized to refuse to file unjustified "referral" "orders" and/or "orders" from unconsented-to magistrates?..... 15

9. On remand, should LINDSAY participate?... 15

More Statutory Challenges..... 16

10. What does "transportation" mean?..... 16

Not defined in the Transp. Code..... 16

Defined..... 16

Removing people and/or property..... 16

From here to there..... 16

For profit or hire..... 17

Under the choice of law of the "place" called "this state."..... 17

The generic concept of "use."..... 17

"Use" and the *Terry* stop..... 17

Deliberate indifference..... 17

11. What does "vehicle" mean?..... 18

12. What does "motor vehicle" mean?..... 18

13. What does "drive" mean?..... 18

14. What does "operator" mean? ..... 19

15. What does "this state" mean? ..... 19

The vagueness is systemic, by design ..... 20

16. What does "any proceeding" mean? ..... 21

17. What does "trial *de novo*" mean? ..... 21

18. What does "commenced" mean? ..... 21

19. Does § 521.021 define an offense? ..... 21

Immunity for criminal conduct? ..... 22

No immunity for criminal conduct ..... 22

No immunity for commercial conduct ..... 22

20. Is HALE lawfully dismissed from this case? . 22

In the county court: STATE has no standing; hence, HALE has no jurisdiction ..... 22

HALE's criminal conduct. ..... 23

18 U.S.C. §§ 241, 242. ..... 23

18 U.S.C. §§ 1341 and 1349. ..... 24

18 U.S.C. §§ 1512(b) and (k). ..... 24

18 U.S.C. §§ 1513(e)([1]) and (e)(2) ..... 25

Penal Code § 31.03. ..... 25

Penal Code § 39.02. ..... 26

Penal Code § 39.03(a) ..... 26

Penal Code § 20.02. ..... 27

Penal Code § 36.06. ..... 27

Organized Crime enhancement. ..... 27

Equitable remedies ..... 28

21. Is WEEKS lawfully dismissed from this case?.. ..... 28
In the municipal court: STATE had no standing; hence, WEEKS has never had a case. ..... 28
In the county court: STATE has no standing; hence, WEEKS has never had a case. ..... 28
No case?—no immunity ..... 28
WEEKS' criminal conduct ..... 29
18 U.S.C. §§ 241, 242. ..... 29
18 U.S.C. §§ 1341 and 1349. ..... 29
18 U.S.C. §§ 1512(b) and (k). ..... 29
18 U.S.C. §§ 1513(e)([1]) and (e)(2) ..... 30
Penal Code § 31.03. ..... 30
Penal Code § 39.02. ..... 30
Penal Code § 39.03(a) ..... 30
Penal Code § 20.02. ..... 30
Penal Code § 36.06. ..... 31
Organized Crime enhancement. ..... 31
Equitable remedies ..... 31
22. Is GAINES lawfully dismissed from this case?. ..... 32
In the municipal court: STATE had no standing; hence, GAINES never had jurisdiction ..... 32
GAINES' criminal conduct. ..... 32
18 U.S.C. §§ 241, 242. ..... 32
18 U.S.C. §§ 1341 and 1349. ..... 33
18 U.S.C. §§ 1512(b) and (k). ..... 33
18 U.S.C. §§ 1513(e)([1]) and (e)(2) ..... 33
Penal Code § 31.03. ..... 33
Penal Code § 39.02. ..... 33

Penal Code § 39.03(a).....34
Penal Code § 20.02.....34
Penal Code § 36.06.....34
Organized Crime enhancement.....34
Equitable remedies.....34
23. Is CITY lawfully dismissed from this case? ..35
24. Is COUNTY lawfully dismissed from this case? .....35
25. Is STATE lawfully dismissed from this case?36
Why are we here? .....36
Overt waiver. .....36
Commercial conduct. .....37
Costs for service .....38
26. Is STATE liable to Taylor for the (additional) costs for service? .....38
Remedies and Relief Requested.....38
Appendices, Table of Contents.....A-i

## Table of Authorities

### Cases

*Aetna Life Ins. Co. v.* ***Lavoie***, 475 U.S. 813 (1986)..23

*Austin v. New Hampshire*, 420 U.S. 656, 668 (1975) (Blackmun, J., dissent).....23

*Bd. of County Comm'rs v.* ***Brown***, 520 U.S. 397 (1997).....18, 35, 36, 37

*Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971).....22

*Bradley v. Fisher*, 80 U.S. (13 Wall.) 335 (1872)..... .....23, 29, 32

*Buckley v. Fitzsimmons*, 509 U.S. 259 (1993).....28

*Caperton v. A. T. Massey Coal Co. Inc.*, 129 S. Ct. 2252 (2009).....23

*Chicago, R. I. & G. Ry. Co. v.* ***Cosio***, 182 S.W. 83 (Tex. Civ. App.—Amarillo 1916, no writ).....17

*Colorado River Water Conservation District v. United States*, 424 U.S. 800 (1976).....2

*Continental Baking Co. v. United States*, 281 F.2d 137 (6th Cir. 1960).....22

*Cornell Steamboat Co. v. United States*, 321 U.S. 634, 641 (1944) (Frankfurther, J., dissent).....16

*Dallas County v.* ***Halsey***, 87 S.W.3d 552 (Tex. 2002). .....23, 29, 32

*Deposit Guaranty Nat'l Bank v. Roper*, 445 U.S. 326, 344 (1980) (Powell, J., and Stewart, J., dissent).23

*Fla. Prepaid Postsecondary Ed. Expense Bd. v. College Savings Bank*, 527 U.S. 627 (1999).....36

*Gonzalez v.* ***Carhart***, 550 U.S. 124 (2007). .....21

*Gonzalez v. United States*, 553 U.S. 242 (12 May 2008) (**"If the parties consent ...."**). ..... .....2, 12, 13, 14, 20

*Graham v. Lappin*, 255 F.3d 906 (7th Cir. 2001)..... .....17, 20

*Gravel* v. *United States*, 408 U.S. 606 (1972).....22

*Griswold v. Connecticut*, 381 U.S. 479 (1965).....36

*Harlow v. Fitzgerald*, 457 U.S. 800 (1982).....22

*Heckler v.* ***Cmty. Health Svcs.***, 467 U.S. 51 (1984). .....14

*Hess v. Port Authority Trans-Hudson Corp.*, 513 U.S. 30 (1994).....35, 37

*Idaho v.* ***Coeur d'Alene Tribe*** *of Idaho*, 521 U.S. 261 (1997).....28, 31, 34, 35, 36, 37

*In re Murchison*, 349 U.S. 133 (1955).....23

*Liljeberg v. Health Svcs. Acq. Corp.*, 486 U.S. 847 (1988).....16

*Lujan v.* ***Defenders of Wildlife***, 504 U.S. 555 (1992).....23, 28, 32

*Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803). 23

*Mayberry v. Pennsylvania*, 400 U.S. 455 (1971). .....23

*Maynard v. Texas*, 249 S.W. 473 (Tex. Crim. App. 1923).....16

*McKenna v. Texas*, 221 S.W.3d 765 (Tex. 2007).....23

*Northern Ins. Co. v. Chatham County*, 547 U.S. 189 (2006).....35, 37

*O'Shea v. Littleton*, 414 U.S. 488 (1974).....22

*Ogden v. Saunders*, 25 U.S. (12 Wheat.) 213 (1827). ..... 20, 36

*Pierson v. Ray*, 386 U.S. 547 (1967) ..... 23, 29, 32

*Powell v. Texas*, 392 U.S. 514 (1968). ..... 26

*Reeves v. State*, 144 Tex. Crim. 270, 162 S.W.2d 705 (Tex. Crim. App. 1942) ..... 22, 28, 32

*Rockwell Int'l Corp. v. United States*, 549 U.S. 457 (2007). ..... 23

*Rothgery v. Gillespie County*, 554 U.S. 191 (2008) ..... 5, 21

*Skelton v. Henry*, 390 F.3d 614 (8th Cir. 2004). ..... 36

*Smith v. Texas*, ___ S.W.3d. ___ (24 Feb 2010 Tex. Crim. App.). ..... 22, 28, 32

*St. Clair Cnty v. Interstate Sand & Car Transfer Co.*, 192 U.S. 454 (1904). ..... 17

*Terry v. Ohio*, 392 U.S. 1 (1968). ..... 17

*Tesco American, Inc. v. Strong Industries*, 221 S.W.3d 550 (Tex. 2006). ..... 23

*Tex. Dept. of Parks & Wildlife v. Miranda*, 133 S.W.3d 217 (Tex. 2004). ..... 23, 28, 32

*Tex. Dept. of Transp. v. City of* ***Sunset Valley***, 146 S.W.3d 637 (Tex. 2004). ..... 23, 28, 32

*Texas v.* ***Fidelity and Deposit Co.*** *of Md.*, 223 S.W.3d 309 (Tex. 2007). ..... 36

*The Bank of the United States v. The* ***Planters' Bank*** *of Georgia*, 22 U.S. (9 Wheat.) 904 (1824). ..... 22

*Tumey v. Ohio*, 273 U.S. 510 (1927). ..... 23

*United States v.* ***Gooding***, 25 U.S. (12 Wheat.) 460 (1827). ..... 22

*United States v.* ***Lanier***, 520 U.S. 259 (1997). ..... 22

*United States v.* ***Levine***, 457 F.2d 1186 (10th Cir. 1972). ..... 22

*United States v.* ***Levy***, 969 F.2d 136 (5th Cir. 1992). 22

*United States v.* ***Metro. St. Louis Sewer Dist.***, 578 F.3d 722 (8th Cir. 2009). ..... 36

*United States v.* ***Ruffin***, 613 F.2d 408 (2d Cir. 1979). ..... 22

*United States v.* ***Scannapieco***, 611 F.2d 619 (5th Cir. 1980). ..... 22

*United States v.* ***United Mine Workers*** *of America*, 330 U.S. 258 (1947). ..... 23

*United States v.* ***Valencia***, 492 F.2d 1071 (9th Cir. 1974). ..... 22

*Ward v. Village of Monroeville*, 409 U.S. 57 (1972). 23

*Williams v. Vermont*, 472 U.S. 14, 28 (1985) (dissent). ..... 23

**Statutes**

18 U.S.C. § 241. ..... 7, 23, 29, 32

18 U.S.C. § 242. ..... 7, 23, 29, 32

18 U.S.C. § 371. ..... 24, 29, 32

18 U.S.C. § 1341. ..... 24, 29, 33

18 U.S.C. § 1349. ..... 24, 29, 33

18 U.S.C. § 1512(b)(1). ..... 16

18 U.S.C. § 1512(b)(2)(A). ..... 16
18 U.S.C. § 1512(b)(3). ..... 16
18 U.S.C. § 1512(b), (k). ..... 24, 29, 33
18 U.S.C. § 1512(c)(2). ..... 16
18 U.S.C. § 1512(k). ..... 16
18 U.S.C. § 1513(e)([1]). ..... 16, 25, 30, 33
18 U.S.C. § 1513(e)(2). ..... 16, 25, 30, 33
28 U.S.C. § 455(a). ..... 16
28 U.S.C. § 636**(b)**. ..... 12
28 U.S.C. § 636**(c)**. ..... 12, 14
Rev. Stat. § 1979, 42 U.S.C. § 1983. ..... 22
49 U.S.C. § 902(i)(1). ..... 16
TEX. PENAL CODE ANN. § 20.02(a) (West 2003 & Supp. 2006). ..... 27, 31, 34
TEX. PENAL CODE ANN. § 31.01(1)(A), (B), (E). ..... 25, 33
TEX. PENAL CODE ANN. § 31.03(e)(2)(A)(i). ..... 26, 30
TEX. PENAL CODE ANN. § 31.03(f)(1), (2). ..... 26, 30
TEX. PENAL CODE ANN. § 31.03. ..... 25, 30, 33
TEX. PENAL CODE ANN. § 31.09. ..... 26, 30
TEX. PENAL CODE ANN. § 36.06(a). ..... 27, 31, 34
TEX. PENAL CODE ANN. § 39.02. ..... 26, 30, 33
TEX. PENAL CODE ANN. § 39.03(a). ..... 26, 30, 34
TEX. PENAL CODE ANN. § 72.02(a)(1). ..... 27, 31, 34
TEX. PENAL CODE ANN. § 72.02(a)(9). ..... 27, 31, 34

TEX. TRANSP. CODE ANN. § 24.013(f)(2) (West 1999 & Supp. 2006)..... 19
TEX. TRANSP. CODE ANN. § 501.002(14)..... 18
TEX. TRANSP. CODE ANN. § 502.001(13)..... 18
TEX. TRANSP. CODE ANN. § 502.001(24)..... 18
TEX. TRANSP. CODE ANN. § 521.021. .....21, 22, 28, 32
TEX. TRANSP. CODE ANN. § 521.025(c). .....26, 30
TEX. TRANSP. CODE ANN. § 521.025. .....21
TEX. TRANSP. CODE ANN. § 522.003(11)..... 18
TEX. TRANSP. CODE ANN. § 522.003(21)..... 18
TEX. TRANSP. CODE ANN. § 541.001(1)..... 19
TEX. TRANSP. CODE ANN. § 541.201(11)..... 18
TEX. TRANSP. CODE ANN. § 541.201(23)..... 18
TEX. TRANSP. CODE ANN. § 601.002(5)..... 18
TEX. TRANSP. CODE ANN. § 601.002(8)..... 19
TEX. TRANSP. CODE ANN. § 621.001(9)..... 18
TEX. TRANSP. CODE ANN. § 642.001(1)..... 18
TEX. TRANSP. CODE ANN. § 642.001(2)..... 19
TEX. TRANSP. CODE ANN. § 647.001(4)..... 18
TEX. TRANSP. CODE ANN. § 647.001(5)..... 19
TEX. TRANSP. CODE ANN. § 683.001(4)..... 18
TEX. TRANSP. CODE ANN. § 724.001(11)..... 19
TEX. TRANSP. CODE ANN. § 728.001(2)..... 18
TEX. TRANSP. CODE ANN. § 750.003(a)..... 18

**Rules of Civil Procedure**

FED. R. CIV. P. 4(d)(1). ..... 38
Miscellaneous Order No. 6. ..... 12, 15
N.D. TEX. R. 16.2. ..... 12, 14
Special Order No. 2-59. ..... 12, 15
Special Order No. 3-251. ..... 12, 15
TEX. R. CIV. P. 18a ..... 23
TEX. R. CIV. P. 18b ..... 23
TEX. R. CIV. P. 18b(1)(b) ..... 23

**Rules of Criminal Procedure**

TEX. CRIM. PROC. CODE ANN. art. 21.02(7) ..... 22, 28, 32
Art. 44.17. ..... 21
Art. 45.018(b) ..... 5, 21

**Rules of Appellate Procedure**

TEX. R. APP. P. as of 2007 Jan. 1, not 2008 Sep. 1 ... 10
TEX. R. APP. P. 26.1. ..... 9
TEX. R. APP. P. 26.2 ..... 9
TEX. R. APP. P. 50. ..... 10
TEX. R. APP. P. 68.3. ..... 10

**Treatises**

Lev. 19:35-36. ..... 19

## Petition for a Writ of Certiorari

Taylor petitions for a writ of certiorari to the federal appellate court as follows:

### Citations to decisions below

None.

### Jurisdiction

(i) Federal appellate court's "ruling"
24 September 2010 [+90: 23 Dec 2010].
No. 09-11057.

(ii) Extension N/A

(iii) Rule 12.5 N/A

(iv) Statutes, Jurisdiction
28 U.S.C. §§ 1254(1), 2101(c).

(v) Regarding Rule 29.4(c)
STATE is a party.

### Oral Argument is Available

Should the matter warrant further discussion.

## Statement of the Case

### Trial Court Jurisdiction

28 U.S.C. § 1333(1). *See also* §§ 1331, 1367.

**"Travel" v. "Transportation"**

Taylor says, "Travel;" STATE, "Transportation," even though STATE has never had any evidence.

Via threats of sanctions, "the fifth" have extorted and witness-tampered Taylor via the mail intending to intimidate him out of asserting his rights (A) (not) to contract and (B) of access. *Gonzalez*.

Fundamentally, Taylor's suit is sound, and he should *not* be compelled to refile it. At ***worst***, "hold" status per the *Colorado River* doctrine should apply.[1] Ideally, ***this*** case should move forward with trial.

To issue a "no drivers license" ticket to a traveler is to violate the traveler's rights (A) to travel, (B) (not) to contract, and (C) of political/religious association. By charging Taylor criminally, STATE intends to compel Taylor into (1) commerce ("transportation"), (2) a choice of law ("this state"), and, (3) via the ID feature, into political/religious membership of "church of STATE OF TEXAS."

HALE, GAINES, and WEEKS have criminally violated Taylor under color of law and office.

STATE started this, so STATE has no immunity. COUNTY is liable due to its commercial conduct. CITY is liable via respondeat superior. And, each of these entities is liable via deliberate indifference demonstrated by refusing to teach its respective officers, employees, agents, and etc., the reality (of the limits) of the "transportation" scam.

For $1,500 costs, Defendants could have ended this. [1]. Taylor's present demands are $25,000,000.

---

[1] LINDSAY complained "the parties" had not updated him on the "appeal" (trial *de novo*). **[26]** (p.412 ¶1). Prior Status Report *was* eight months earlier, **[25]** (p.343) (reset), but would not a victor have so announced?! HALE's perpetual reset gambit self-proves the merits of this suit, **[32]**, yet LINDSAY ***rewards*** it!

**Judicial Notice**

State courts.

- State v. Taylor, No. 213470-01, Municipal Court, City of Huntsville, Texas (guilty, fine + costs).
- State v. Taylor, No. 07-1392, County Court at Law of Walker County, Texas (pending).
- Taylor v. State, No. 10-08-00208-CR, 10th District Court of Appeals, Waco, Texas (published) (pre-trial collateral order doctrine appeal).
- Taylor v. State, No. PD-1523-08, Court of Criminal Appeals of Texas (pre-trial collateral order doctrine appeal).
- Taylor v. State, No. 08-1096 (cert. denied) (pre-trial collateral order doctrine appeal).

Federal courts.

- Taylor v. Hale, et al., No. 3:07-CV-1634 (ND TX, Dallas).
- In re Taylor, No. 07-11042 ("the fifth") (mandamus denied) (TRO, etc.).
- In re Taylor, No. 09-10698 ("the fifth") (mandamus denied) (unconsented-to non-judicial decision-making).
- Taylor v. Hale, et al., No. 09-11057 ("the fifth") (dismissal aff'd, plus extortionate, witness-tampering, rights-violating threats of sanctions).

**Capacity**

Taylor started out *in pro per*. [1] – [4], [8]. Threshold relief in equity was denied. [7]. He changed to *pro se* at that stage, [11], and has been recognized in that capacity. *See, e.g.*, [14]. Relief at law *and* in equity will be available on remand.

**The ticket for "no driver's license"**

When in Dallas visiting, Taylor's sister had ordered a throw rug for the new wood floors. [2] The rug came in on Tuesday, 23 January **2007**. [3] There being no time for several weeks for her to travel to Dallas, Taylor traveled to Lake Jackson, where Taylor's sister's family lives. There still being an inordinate amount of work for Taylor waiting on him in Dallas, Taylor got up early Wednesday morning, around 0800 GMT (2:00 a.m. CST), which is not at all uncommon, got ready, got fuel, and headed back north. That put him in the Huntsville area at around 1030 GMT (4:30 a.m. CST), 24 January 2007.

Taylor was stopped by two very professional and courteous police officers employed by CITY. One of them said that the reason was a dim license plate light. Since Taylor is not in the transportation business, i.e., not a "driver" or an "operator," under any choice of law, Taylor has no "driver's license." There was/is no passenger manifest or bill of lading, and none was asked for. As they stood in the light drizzle at the side of the highway, where passing traffic was sometimes deafening, the two officers patiently listened to Taylor's explanation about "this state" and the distinction between *driving* and *traveling*. It was new to them. Having been misled into thinking that "licensing" has something to do with the size of the engine in the car, rather than the nature of the ***use*** of the car, and *that* within a particular choice of law, the ticketing officer issued Taylor a ticket for "no driver's license," which correctly left blank the check box next to

---

[2] One of the cats, over time, had necessitated replacing the carpet.

[3] The seasonal sale on the space rug did not include delivery.

"Commercial Vehicle." Ex. D-101. [2]. At no time relevant to that ticket was Taylor ever removing people and/or property from here to there for profit or hire under *any* choice of law, much less the choice of law of the "place" called "this state."

**In the municipal court**

Taylor appeared *in pro per* throughout pre-trial.

**2007** Jan. 31. Taylor filed his Special Appearance and motion to dismiss, which focused on the lack of Notice. Art. 45.018(b).

Feb. 19. Hearing set for April 5.

**Apr. 5**. Two months *after* Taylor filed his motion:

(A) Motion to dismiss denied (**1st** proceeding).

(B) *First* arraignment. Court entered plea of Not Guilty for Taylor. Taylor declined to plea, given the complete absence of Notice. (**2d** proceeding).

(C) Trial set for May 17.

(D) Court engaged its *sua sponte* mandamus "display." *See* App. B. (**3d** proceeding).

(E) ***THEN***, the deputy clerk hand-delivered the complaint to Taylor, which is too late. *See* Art. 45.018(b); *Rothgery* ("arraignment" is a proceeding). GAINES knew this was an issue and had facts, via Judicial Notice, sufficient to end this, but refused.

**Apr. 5**. The deputy clerk who delivered the complaint is also the complainant. D-106. [2]. Thus, an interested party purported to serve process.

**Apr. 5**. The complainant has no personal knowledge of the case. Her knowledge comes solely as a by-product of her employment with the court.

Applying agency the first time, the deputy clerk acts for and on behalf of the clerk. Thus, the (deputy) clerk crossed the Separation of Powers line and

became a hearsay witness for STATE, i.e., the complainant. Yet, that (deputy) clerk, as witness for STATE, continued as a Custodian of Records having 100% full and complete access to that file.

Applying agency *again*, the clerk acts for the court. Thus, where a deputy clerk signs as hearsay complainant, having acquired the information solely by virtue of her judicial employment, the ***judge*** *also* becomes the *de facto* hearsay complainant, i.e., a witness for STATE, which crosses the Separation of Powers line *and* renders him ***disqualified***.

**Apr. 5**. GAINES refused to memorialize his orders. Taylor inquired about getting draft orders to him for signature. "You can send 'um, but I'll decide whether I want to sign 'um."

After some additional discussion, this transpired:

Taylor: And, I need for you to enter written orders.

GAINES: What orders?

Taylor: All the orders you've issued this morning! Contempt. Mandamus. Silence.

GAINES: (After a reflective pause) Well, you can send draft orders, but I may or may not ever sign 'um.

May 17. Despite Taylor's demand for a Venire of 12 drawn from the vicinage, GAINES seated a six-member administrative advisory panel. [4]

*Second* "arraignment" occurred immediately prior to STATE's case-in-chief. Taylor declined for the ***second*** time to enter a plea given the complete absence of Notice.

Trial was well run. Early into deliberations, the

---

[4] Of course, each panel members is (1) a member of "church of STATE OF TEXAS" (2) with a "drivers license."

panel asked about "jury nullification." GAINES correctly informed them that such doesn't exist in this state.

Verdict of Guilty; fine, $100; costs, $65. Taylor edited the "judgment," including changing the capacity to *in pro per*, before GAINES signed it. Taylor appealed.

May 21. Bond for $330.

**In the county court**

*See* 18 U.S.C. §§ 241 and 242.

> [C]onspiracy to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same.

Presumption of guilt.

**2007** Aug. 10. Notice for ***third*** arraignment, signed by non-judicial officer. It doesn't say, "Date of Ticket." It says, "Date of Offense." D-109. [2].

Aug. 31. Taylor, *in pro per*, filed his Special Appearance and related motions, which were designed for ruling without need for a hearing.

Sep. 21. The court's sole response regarding the motions was ***one more*** of the incessant threats of jail for non-appearance. [5] STATE commits all the crimes, and then turns right around and threatens the victim with jail at ***every*** turn. That got the initial set of defendants sued as of Sep. 27. [6]

---

[5] Huntsville is Texas' law-enforcement mecca. Culturally, (A) to receive a ticket is to be guilty, by definition; (B) pleading anything but guilty is evidence of being out of one's mind.

[6] Initially, Service on HALE was returned "Unclaimed." [22].

The shake down.

Oct. 17. Notice is a huge issue in this case. HALE had already refused to rule on Taylor's motions without a hearing and threatened Taylor with arrest for non-appearance at the unnecessary ***third*** "arraignment." Next, HALE, through LABAY, offered the pre-printed reset form, which if signed without negotiation would overtly waive Notice. Taylor drove six hours (round trip) and waited for however long for his case to be called for a 2-minute exchange involving signing that reset form, designed to trick Taylor into waiving his objection to Notice.

That's how it started, and it never got better.

**2007** Oct. 17 [7] – **reset** at STATE's/HALE's request for Nov. 28 (call) / Dec. 17 (trial); Nov. 28 – hearing on Taylor's motions (promptly denied; Taylor requested, viva voce, that the Transcript be prepared; it took the collateral order doctrine appeal and eight and a half months to get that 20-page [8] Transcript); Dec. 14 – **reset** [9] (by phone call and email) for **2008** Feb. 6/19; Feb. 6 – **reset** for Apr. 16 (call) / Apr. 28 (trial) (Taylor was 3d or 4th on the Docket); Apr. 28 – Taylor's special setting request denied – **reset** for Jun. 11/23.

**2008** Apr. 28. Taylor's ***fifth*** personal appearance. At least one trial was to precede Taylor's. Options: (1) stay overnight for however long; (2) travel back and forth each day; (3) get a reset. Taylor didn't request just a reset; he requested a special setting. But Jun. 11/23 was just another generic setting;

---

[7] Underscore indicates "in person" appearance.

[8] That *includes* the certification page. The Exhibit volume, photocopies of Taylor's 11 Exhibits, is just over 100 pages.

[9] STATE/HALE initiated two resets, and Taylor is 98% certain that is the second of those.

hence, special set request denied, unequivocally and formally confirming the pre-trial sentence of probation for life with a bi-monthly check-in.

Regarding the 20-page Transcript.

In the same way that GAINES refused to memorialize his orders, HALE refused to memorialize hers. [10] So, in order for Taylor to have the orders in writing, and in prep for the June 11/23 call/trial dates, Taylor had to get the Transcript he had already requested, regarding which he had received a promise of an estimate but which estimate hadn't materialized for six months. The Transcript is not only (A) the only source of the order(s) but also (B) a witness' statement. Without it, Taylor is denied access to the appellate courts as well as denied discovery in the trial court.

Regarding the pre-trial appeal.

Jun. 3. Collateral order doctrine appeal filed.

Jun. 20. Notice of Appeal **hand-delivered** to Waco. In that two weeks, Taylor had expected to hear from the appellate court. When he hadn't, he confirmed by phone with the appellate court that nothing from HALE's court had been transmitted.

Jul. 3. "Show cause" order regarding jurisdiction.

Jul. 7. Taylor's response.

[Extension requests by Reporter, Clerk. Granted.]

Aug. 7. Clerk's Record filed.

Aug. 13. Reporter's Record filed (***requested*** Nov. 28, 2007, i.e., eight and a half months prior).

Aug. 22. Taylor's Brief filed.

Sep. 3. Appellate opinion filed. [11]

---

[10] *Cf.* TEX. R. APP. P. 26.1 (signature) *with* 26.2 (open court).

[11] This precedes STATE's Brief due date. Key, STATE never contested the facts and never objected to being "shorted," here.

Sep. 5. Taylor filed and served his petition for discretionary review (PDR). Since by operation of law the petition doubles as a motion to reconsider, *see* TEX. R. APP. P. 50, it is filed with the *appellate* court rather than directly with the *high* court. TEX. R. APP. P. 68.3. Since this appeal predated the Rule changes, the appellate court had 30 days to reconsider, but they came close to exhausting the entire "new" time period of 60 days. They had no intention of reconsidering anything. They stalled, deliberately intending to aid and abet HALE's exercise of jurisdiction she's never had.

Oct. 8. The appellate court's opinion confesses the court's utter lack of comprehension of the laws of "this state," and Taylor still thought the 29 October setting was legit. Smelling another rat, Taylor raised one hellacious objection to that delay.

Oct. 24. CCA filed Taylor's PDR.

The fraudulently induced non-appearance.

Sep. 9. HALE unilaterally reset the trial date to *Oct. 29* (call) / 17 Nov. (trial).

Sep. 11. Taylor filed his motion for contempt with both the appellate court and the CCA.

Sep. 23. Appellate court denied the motion.

Oct. 28. CCA denied the motion.

?? < Oct. 29. Without Notice to Taylor, HALE removed the case from the Docket.

Since the shake down (the pre-trial sentence of probation for life with a bi-monthly check-in) didn't work, HALE started Plan B. While that pre-trial appeal was active, HALE finally decided that it would be good to wait until the appeal was completed before moving forward with trial. At least that's the

agreement/announcement HALE made from the bench on 29 October, in front of the entire courtroom full of people. The agreement is also documented in No. PD-1523-08 (CCA).

**Oct. 29**. Announcement/agreement made in open court to postpone trial until the appeal was complete. **Reset** to **2009** Jan. 7/26 call/trial.

The next generic trial date was set at the physical end of the existing calendar, which was in January, 2009. [12] It happens that the CCA ruled in PD-1523-08 on 26 November 2008, i.e., about 60 days before that 26 January 2009 setting. Thus, when Taylor didn't appear in January, *twice*, HALE's having induced his absence via her announcement/ agreement before an entire courtroom full of people, that trial would wait until the appeal was completed, i.e., even though everyone ***else*** in the nation gets 90 days to file a petition with this Court, HALE egregiously and manifestly changed her position, blind-sided Taylor, and issued a "Failure to Appear" arrest warrant against Taylor. [32] (attached).

**2009 Jan. 26**. "Failure to Appear" warrant issued. (Notice to Taylor: 2 Feb. [32] (attached).)

There's more. Looking back, given the filing of the Notice of Appeal on Jun. 3, Taylor wasn't in Huntsville for the June 11 or 23 settings, either. However, the appeal was clearly active, and HALE unilaterally reset the case as of Sep. 9 for Oct. 29. But, then she withdrew *that* setting ***without Notice***. Thus, when Taylor appeared at the Oct. 29 ***setting***,

---

[12] The Mayan calendar ends 2012 Dec. 21. In this exact same way, as of Oct. 29, the court's calendar ended 2009 Jan. 31. Given the announcement/agreement, "everyone" understood that the case would be continued from that temporary setting.

HALE said, "I hadn't expected to see you here this morning," a statement fully supported by her not even calling the case. Why she *didn't* expect to see Taylor after ***setting*** the case and then withdrawing that setting ***without Notice*** is anyone's guess. Then, why she *didn't* unilaterally reset the case as of 7 January 2009 is also anyone's guess.

**Signature authority—federal trial court**

Compelled consent to magistrate participation.

Taylor never consented. [1], [3], [4], [11], [12], [15], **[16]** (Taylor's pre-*Gonzalez* Brief), [18], [19], [29], [33], [37], [41], [44]. The "referral" "order," [34], is ***post***-*Gonzalez*. An unconsented-to magistrate participated. [35]. Taylor moved to strike. [37]. In the face of *Gonzalez*, LINDSAY criminally violated Taylor by threatening dismissal if Taylor continued to assert his rights. [38]. Moreover, triggering estoppel, there had been neither "referral" nor unconsented-to magistrate participation up to the point of vacating the first judgment.

**Statutory Challenges – ND TX Local Rules**

The "Consent to Proceed" form.

[37]. Despite *Gonzalez*, which construes § 636**(b)**, the form used by ND TX focuses solely on § 636**(c)**. In short, the trial court intends to compel consent regarding all pre-trial magistrate participation.

Certain local rules.

[37]. Despite *Gonzalez*, which construes § 636**(b)**, ND TX R. 16.2, Special Order No. 3-251, and Misc. Order No. 6, as supplemented by Special Order 2-59, all demonstrate ND TX's intent not only to compel consent but also to displace the congress, rewriting at will the scope of the office of magistrate.

**Placing Responsibility**

MITCHELL.

The Clerk tampers with the Record every time she files a facially illegal "referral" order, as well as every time she files a facially unauthorized "order" signed by an unconsented-to magistrate. It follows, then that the Clerk should have the authority to refuse to file illegal "orders."

LINDSAY.

Because Taylor asserted his clearly established right not to contract, *Gonzalez*, LINDSAY threatened dismissal. [38]. He had that witness-tampering "order" delivered via the mail. Since LINDSAY criminally violated Taylor several ways, LINDSAY shall not participate on remand.

**Costs for Service**

*See* [53] (p.455-58). STATE, having acted commercially throughout, refused to waive formal Service. Taylor requests reimbursement.

## Argument

### Signature authority—trial court

1. **May the district court compel Taylor to consent to magistrate participation?**

   *Gonzalez*; *Gonzalez*; *Gonzalez*.

2. **Does an unconsented-to magistrate have signature authority?**

   *Gonzalez*; *Gonzalez*; *Gonzalez*.

3. **Where the "judge" has acted in accord with the objection, is he estopped from "bulldozing" it later?**

Left open in *Cmty. Health Svcs.* is the issue of whether estoppel applies against "the government."

### Statutory Challenges – Local Rules

4. **Does the "Consent to Proceed" form, which focuses solely on § 636(c), violate Due Process?**

As documented in all local rules relevant to the issue, ND TX boldly and openly defies *Gonzalez*. They couldn't care less about party consent on the issue of pre-trial magistrate participation. They're not the only district court with that attitude.

5. **Does ND TX R. 16.2 violate Due Process?**

*See* Question 4. Within the legislatively set scope of authority of the office of magistrate, what the

magistrate may or may not do is up to the ***parties***, *not* the presiding judge.

**6. Does Special Order No. 3-251 violate Due Process?**

*See* Question 4. Per this "order," a case may be "referred" (1) by the clerk, (2) upon filing of the case, (3) without any other fact-finding or order by the assigned judge, etc.

**7. Does Miscellaneous Order No. 6, as supplemented by Special Order 2-59, violate Due Process?**

*See* Questions 4, 5, 6. "Rule 3" (1982), if applied ***at filing***, would come close to matching *Gonzalez*.

**Placing Responsibility**

**8. May the clerk be authorized to refuse to file unjustified "referral" "orders" and/or "orders" from unconsented-to magistrates?**

Is the clerk part of the solution or just another part of the problem? Where the clerk is formally authorized to refuse to file illegal "referral" "orders" and "orders" by unconsented-to magistrates, that would solve part of the problem. Of course, where that authority exists and it's not exercised, that makes the clerk all the more clearly a conspirator in that Record-tampering episode.

**9. On remand, should LINDSAY participate?**

18 U.S.C. §§ 241, 242 (right (not) to contract;

right of access); § 1512(b)(1), (b)(2)(A), (b)(3), (c)(2), [13] and (k) (witness tampering and its direct conspiracy); § 1513(e)([1]), (2) (witness tampering and its direct conspiracy); 28 U.S.C. § 455(a); *Liljeberg*.

## More Statutory Challenges

### 10. What does "transportation" mean?

Not defined in the Transp. Code.

What is the Transp. Code about? The "transportation" code nowhere defines "transportation!" It's not that we can't come up with a definition. It's that when we do, we find that "transportation" is "commercial." Thus, where there's no definition, there's vagueness. But, there is a definition, if we look long and hard enough. Thus, vagueness isn't so much the problem as judicial and prosecutorial construction that ***defies*** the term.

Defined.

"Transportation" means removing people and/or property from here to there for profit or hire under the choice of law of the "place" called "this state."

**REMOVING PEOPLE AND/OR PROPERTY.**

Transp. Act of 1940, 54 Stat. 898, 929, 49 U.S.C. § 902(i)(1), in particular § 302(i)(1). *Cornell Steamboat*, 321 U.S. at 641-42 (Frankfurter, J., dissent).

**FROM HERE TO THERE.**

*Cf. Maynard* (context: unlawful "transportation" of intoxicating liquor).

---

[13] Sec. 1512(d) doesn't apply, because LINDSAY hasn't, won't, and can't "dissuade" Taylor from asserting non-consent.

**FOR PROFIT OR HIRE.**

*St. Clair Cnty*, 192 U.S. at 456-57 (allegations regarding operating a ferry without a license). *See also Cosio*, 182 S.W. at 85.

**UNDER THE CHOICE OF LAW OF THE "PLACE" CALLED "THIS STATE."**

The entirety of STATE's regulatory authority, for anything, is limited to that "place" where circulating "funny money" is not flat out fraud, i.e., to the "place" called "this state." *Cf.* § 7; *Graham*.

The generic concept of "use."

If ***use*** were ***ir***relevant, it'd be "fraud" to deny a mileage deduction, e.g., Sched. A., for "personal ***use***" of the car. Because "personal ***use***" is *not* deductible, it follows that ***use*** determines "personal v. commercial" treatment and that "*personal* use" is not *commercial* in any context. Obviously, personal (*non*-commercial) ***use*** (i.e., ***travel***) needs no "license."

"Use" and the *Terry* stop.

These officers never even *tried* to establish "transportation" ***use***. They asked nothing about any passenger manifest or any bill of lading. Moreover, the ticket documents non-commercial use. D-101. [2]. The "Commercial Vehicle" box (4th sec. from bottom) is not checked.

The executive *has* to have authority to determine his/its authority, and police ***always*** have authority to protect themselves. *Terry*. The car has a license plate, and they based the stop on a dim plate light. But, that's where the *Terry* authority ended, because Taylor was ***not*** engaged in "transportation."

Deliberate indifference.

These officers had never heard of "this state" or

ever been taught that "transportation" regulation has limits. In the exact same way that Ramos and Compean were never taught about "this state" and the limits of their authority at the border, these two officers were not taught the limits of "transportation" regulation. "[A] violation of federal rights may be a highly predictable consequence of a failure to equip law enforcement officers with specific tools to handle recurring situations." *Brown*, 520 U.S. at 409.

**11. What does "vehicle" mean?**

TRANSP. CODE §§ 502.001(24), 541.201(23), 621.001(9), 750.003(a).

Translation: a conveyance ***used*** for "transportation" purposes.

Application of statutory algebra: No "transportation?"—no "vehicle."

**12. What does "motor vehicle" mean?**

TRANSP. CODE §§ 501.002(14), 502.001(13), 522.003(21), 541.201(11), 601.002(5), 642.001(1), 647.001(4), 683.001(4), 728.001(2).

Translation: "Vehicle" with a motor.

Application of statutory algebra: No "transportation?"—no "vehicle;" no "vehicle?"—no "motor vehicle."

**13. What does "drive" mean?**

TRANSP. CODE § 522.003(11).

The ***sole*** definition for "drive" in the entire "transportation" code is found in the "***commercial*** driver's license" chapter, Ch. 522.

Translation: In the disciplined "transportation" code, "drive" means being behind the wheel of a

"vehicle." In the TRANSP. CODE, "drive" means being behind the wheel of a "motor vehicle."

Application of statutory algebra: No "transportation?"—no "vehicle;" no "vehicle?"—no "motor vehicle;" no "motor vehicle?"—no "driving."

### 14. What does "operator" mean?

TRANSP. CODE § 541.001(1).

This "definition" is very confused. "Drives," which has meaning only with respect to a "***motor vehicle***," is juxtaposed with the concept of "physical control of a ***vehicle***." Ultimately, it doesn't matter, here, but which is it: "vehicle" or "motor vehicle?" [14]

Translation: In the disciplined "transportation" code, "operator" is the one behind the wheel of a "motor vehicle." In the TRANSP. CODE, "operator" is the one behind the wheel of either a "vehicle" or a "motor vehicle."

Application of statutory algebra: No "transportation?"—no "vehicle;" no "vehicle?"—no "motor vehicle;" no "(motor) vehicle?"—no "operator."

### 15. What does "this state" mean?

Contrary to popular belief, "this state" isn't really a "place." It's a "choice of law." The "place" called "this state" is a "federal area" or a "federal zone," a "Constitution-free, maritime, commercial zone," associated with the "funny money" found in the 48 contiguous states, Alaska, Hawaii, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands, and all the rest of the territories

---

[14] *See also* §§ 601.002(8) ("motor vehicle"), 642.001(2) (same), 647.001(5) (same); § 724.001(11) (looks to a "motor vehicle" or watercraft, i.e., "transportation" activity); § 24.013(f)(2) (regarding aircraft).

and protectorates. The capital of "this state" is DC.

Without "this state," running the present "funny money" scam would be criminal. Thus, the fundamental "choice of law" to which "this state" refers is the Law of the Sea, to be distinguished from the "choice of law" associated with an honest system of weights and measures, Lev. 19:35-36, which is the Law of the Land. The Law of the Sea doesn't just apply; it applies only if there's an agreement that includes that choice of law. *Ogden. Cf.* § 7; *Graham.*

**The vagueness is systemic, by design**

Note that (A) this petition exists, i.e., for a reason; (B) the state appellate court has no clue; (C) despite *how many years* of litigation on these points so far? coming up on four, WEEKS has ***yet*** to dismiss the bogus case; (D) HALE repeatedly and criminally violated Taylor for defending himself with the system's very own stinkin' terms; (E) LINDSAY not only dismissed the case (it's **"nonsensical"** (pp.420-21) to distinguish "transportation" (*driving, operating*) from "travel") but also threatened Taylor under Rule 11 (p.423) and then criminally violated Taylor for his refusing to be extorted into consenting to magistrate participation, [38], despite what seems monumentally clear language in *Gonzalez*; and (F) "the fifth" criminally violated Taylor via threats of sanctions if he continues to assert his rights under the very law that the members of that "court" have sworn at least two oaths: (1) "license" and (2) "office."

By design, few people truly "get it," and those who do have a duty to act for the benefit of the nation.

**16. What does "any proceeding" mean?**

45.018(b) (regarding one day's Notice). One day before what? "Any proceeding" relevant to the prosecution. *See Rothgery* (the "arraignment" is a "proceeding"). "Any proceeding" must also mean (A) a hearing on a Special Appearance and its motion to dismiss and (B) a *sua sponte* mandamus proceeding.

**17. What does "trial *de novo*" mean?**

Art. 44.17. Unless it means "**case** *de novo*," there's absolutely zero point in a ***third*** "arraignment" in the county court. *Cf.* D-109. [2].

**18. What does "commenced" mean?**

Art. 44.17. A case typically "commences" with the filing of the charge. Thus, this case "commenced" in the muni court. No ***third*** "arraignment" is necessary.

**19. Does § 521.021 define an offense?**

The "complaint," D-106, [2], cites TRANSP. CODE § 521.02**1**, which charges no offense. There is no commercial nexus, no mens rea, and no punishment; hence, no Notice. *Cf.* § 521.02**5**. *Carhart*.

**Immunity for criminal conduct?**

No immunity for criminal conduct.

*O'Shea*, 414 U.S. at 503; *Gravel*, 408 U. S. at 627; *Harlow*, 457 U.S. at 809-11, 813-19 (citing *Gravel*, immunity protection extends no further than its justification warrants; acts must still come *within* the scope of the *authorized* discretion); *Lanier*, 520 U.S. at 270-71. *Cf.* Rev. Stat. § 1979, 42 U.S.C. § 1983; *Bivens*.

"Whoever" commits an offense against the laws of the United States is liable. Corporations are not exempt from criminal liability. *Cf. Continental Baking Co.* (anti-trust context). Regarding agency, *see Gooding*, 25 U.S. at 469. The principal who acts through "agency" is liable. *Cf. Scannapieco*; *Ruffin*; *Valencia*; *Levine*. "Cause" isn't limited to sole and proximate act. *Levy*.

No immunity for commercial conduct.

Immunity from suit has ***never*** extended to commercial players. *Cf. Planters' Bank* ("government" as proprietor) (a concept that has been more than fully recognized since at least 1824).

**20. Is HALE lawfully dismissed from this case?**

In the county court: STATE has no standing; hence, HALE has no jurisdiction.

Section 521.021 defines no offence; hence, none is charged. *Cf. Smith* (principles applied on element of "recklessness"). "An information must allege in plain and intelligible language all the facts and circumstances necessary to establish all the material elements of the offense charged." *Reeves*, 162 S.W.2d at 705; Art. 21.02(7). A "complaint," like an "information," must charge an offense.

Moreover, Taylor not only was not engaging in "transportation" but also is not liable in the capacity charged. In short, since nothing about the Transp. Code ***can*** apply, STATE has no "actual grievance." *See Sunset Valley*; *Tex. Dept. of Parks & Wildlife v. Miranda*. *Cf. Defenders of Wildlife*.

HALE has jurisdiction to determine her jurisdiciton. *Marbury v. Madison*. That's an exercise of inherent ***civil*** jurisdiction. *Cf. United Mine Workers* (*civil* jurisdiction is inherent; *criminal* jurisdiction must be proved). All cases are non-cases, *cf. Austin* (Blackmun, J., dissent); *Deposit Guaranty Nat'l Bank*, 445 U.S. at 353 (Powell, J., and Stewart, J., dissent); *Williams*, 472 U.S. at 36 (dissent) (citing *Austin*), i.e., ***civil***, until STATE proves standing. Some matters, just like this one, never stop being non-cases. *Cf. Rockwell Int'l Corp.* (the final pre-trial order confirmed that this was a non-case).

Since HALE has no jurisdiction, she also has no immunity. *Cf. Halsey* (absolute immunity protects discretion exercised ***within*** the scope of jurisdiction); *Pierson* (citing *Bradley*) (same).

Given all the criminal charges she's run up, including fraud, she's also ***disqualified*** due to personal interest. *See Caperton*; *Tesco American, Inc.*; TEX. RS. CIV. P. 18a, 18b, 18b(1)(b); *McKenna*. *See also Lavoie*; *Ward*; *Mayberry*; *In re Murchison*, 349 U.S. 133 (1955); *Tumey*.

HALE's criminal conduct.

**18 U.S.C. §§ 241, 242.**

Taylor has the right to the presumption of innocence. HALE's "form" presumes guilt. D-109. [2].

HALE gave STATE two resets, and on Taylor's third request for reset, refused to give Taylor a

special setting, i.e., a date certain for trial. HALE has used multiple resets as a method of extortion and witness-tampering, via "probation for life with a bi-monthly check-in," to conspire with WEEKS, GAINES, CITY, COUNTY, and STATE to perpetuate the criminal charge against Taylor directly responsive to his exercise of his rights (A) to travel, (B) not to contract, specifically the right not to engage in "transportation" (compelled consent regarding commerce), (C) not to contract, specifically the right of choice regarding choice of law (compelled consent regarding choice of law), and (D), given the ID feature of a "drivers license," not to associate with any particular "church" (compelled consent regarding religious/political affiliation). *See also* § 371.

**18 U.S.C. §§ 1341 AND 1349.**

HALE, directly, as an aider and abetter, and by conspiracy, has engaged in mail fraud and its related conspiracy, via the incessant, unending threats for arrest for non-appearance in a matter over which HALE has never had subject matter jurisdiction. Sometimes, jurisdiction can't really be determined before trial. But, HALE has heard Taylor's defense, 28 Nov 2007, and yet refuses to dismiss the case.

Since the Notice of the arrest warrant came via email, that act may or may not constitute mail fraud.

**18 U.S.C. §§ 1512(b) AND (k).**

HALE has engaged in witness tampering and its related conspiracy. She has no jurisdiction, yet she put Taylor on "probation for life with a bi-monthly check-in," refusing to dismiss *and* refusing to give him a date certain for trial, constantly compelling him to make the six-hour (minimum travel time) round trip just to reset the case. When that failed to

produce a confession, HALE induced Taylor's non-appearance so as to justify issuing an arrest warrant. HALE's intent throughout is to threaten or intimidate Taylor out of testifying as to his defenses which overtly expose the "transportation" code scam.

**18 U.S.C. §§ 1513(e)([1]) AND (e)(2).**

HALE has retaliated (and retaliated and retaliated) against Taylor. Practically everything HALE has done has been subsequent to the 27 Sep 2007 filing of this lawsuit, in which Taylor first charged HALE criminally. She continues to exercise jurisdiction she doesn't have. She has refused since 28 April 2008 to set a date certain for trial, which compels all the resets, which effectively sentenced Taylor to "probation for life with a bi-monthly check-in," which is extortionate. When the extortion didn't work, she induced Taylor's non-appearance and then issued a "Failure to Appear" arrest warrant.

**PENAL CODE § 31.03.**

HALE is a principal in the primary theft-in-progress offence. The effort by HALE, etc., is to deprive Taylor of some amount of money, as a "fine," "justified" by a conviction of "driving" without a "drivers license," despite the fact that Taylor wasn't engaged in "transportation." He was "traveling."

HALE is the principal in the secondary theft-in-progress offence. By her deception, *see* PENAL CODE § 31.01(1)(A), (B), (E), committed against Taylor, by first asserting her intent, from the bench, before an entire courtroom full of people, to hold off on trial until that pre-trial appeal was completed, and then by charging Taylor with non-appearance about a month or so before the deadline for his petition for certiorari. [32] (pp.439-54, in particular **p.451**). By

that act of deception, HALE charged a higher bond.

Regarding the punishment level, HALE acts on STATE's behalf and/or on COUNTY's behalf, making HALE, COUNTY, ***and*** STATE principals in the theft-in-progress offenses. The bogus "misdemeanor" at issue is punishable by fine up to $200. TRANSP. CODE § 521.025(c). [15] That's potentially a Class B misdemeanor theft offense. PENAL CODE § 31.03(e)(2)(A)(i). It'd be elevated one level via § 31.03(f)(1) or (2). **However**, given the aggregation policy, PENAL CODE § 31.09, between the Bond for appeal ($300+) and the additional Bond ($200) via HALE's retaliatory, fraud-induced basis for arrest and demand for more Bond, [32] **(p.451)**, *any* additional amount for the fine, from $1 to $200, puts the amount-in-controversy at $500 or more but less than $1,500. Thus, we're really starting with a Class **A** misdemeanor. Elevate **that** theft-in-progress one level via § 31.03(f)(1) or (2), and we're talking ***felony***-level theft. For ***felony***-level theft, conspiracy applies, as does Chap. 71.

**PENAL CODE § 39.02.**

HALE has abused her office. She intends to gain a benefit for STATE and/or COUNTY and/or CITY, thus herself, and she intends to harm or defraud Taylor under color of law and office.

**PENAL CODE § 39.03(a).**

Based on the foregoing, it's clear that HALE has committed official oppression. PENAL CODE § 39.03(a), in particular (a)(1) and (a)(2).

---

[15] The state appellate court "advised" HALE to consider a fine less than $100. No. 10-08-00208-CR (Waco). *See also Powell.*

**PENAL CODE § 20.02.**

While the "official" "restrainor" is STATE, HALE has so outrageously prolonged the case, thereby *greatly* assisting and aiding and abetting, by intentionally and/or knowingly refusing to dismiss a case of which she has never had jurisdiction, and then inducing Taylor's absence so as to justify the arrest warrant, i.e., ***more*** "restraint," as to involve herself personally in the maintenance of the unlawful restraint. *See, e.g.*, PENAL CODE § 20.02.

**PENAL CODE § 36.06.**

HALE has both retaliated against Taylor and tampered with him as a witness. It wasn't enough to presume Taylor guilty and harass him, incessantly threatening him with arrest for non-appearance in a case over which HALE never had jurisdiction. HALE overtly went out of her way to refuse to set a date certain for trial, thereby sentencing Taylor to "probation for life with a bi-monthly check-in." Then, she induced Taylor's absence and issued an arrest warrant. Taylor is both a state and a federal witness, and he has reported HALE's criminal conduct to both state and federal law enforcement authorities.

**ORGANIZED CRIME ENHANCEMENT.**

Given the foregoing criminal conduct, HALE's punishment level, thus civil damages level, is enhanced by PENAL CODE § 72.02(a)(1), organized crime. HALE is one of at least three conspirators engaged in the felony-level theft-in-progress crimes against Taylor. Moreover, HALE's punishment level, thus civil damages level, is enhanced by PENAL CODE § 72.02(a)(9). HALE is one of at least three conspirators engaged in retaliation and witness tampering against Taylor, which is "any offense

under Chapter 36."

Equitable remedies.

HALE ***must*** be a party for purposes of the injunctive relief requested. *Cf. Coeur d'Alene Tribe.*

**21. Is WEEKS lawfully dismissed from this case?**

In the municipal court: STATE had no standing; hence, WEEKS has never had a case.

Section 521.021 defines no offence; hence, none is charged. *Cf. Smith* (principles applied on element of "recklessness"). "An information must allege in plain and intelligible language all the facts and circumstances necessary to establish all the material elements of the offense charged." *Reeves*, 162 S.W.2d at 705; Art. 21.02(7). A "complaint," like an "information," must charge an offense.

Moreover, Taylor not only was not engaging in "transportation" but also is not liable in the capacity charged. In short, since nothing about the Transp. Code ***can*** apply, STATE has no "actual grievance." *See Sunset Valley*; *Tex. Dept. of Parks & Wildlife v. Miranda. Cf. Defenders of Wildlife.*

In the county court: STATE has no standing; hence, WEEKS has never had a case.

*See* foregoing (for this Question).

No case?—no immunity.

Since WEEKS has never had a case, he also has no immunity. *Cf. Buckley*. For "investigators," "qualified" immunity doesn't extend so far as to cover a bogus (false) case, much less criminality. For "prosecutors," "absolute" immunity takes us down

the very same path as for "judges." *Cf. Halsey* (absolute immunity protects discretion exercised ***within*** the scope of jurisdiction); *Pierson* (citing *Bradley*) (same).

WEEKS' criminal conduct.

**18 U.S.C. §§ 241, 242.**

WEEKS has conspired with HALE, GAINES, CITY, COUNTY, and STATE to prosecute Taylor for exercising his rights (A) to travel, (B) not to contract, specifically the right not to engage in "transportation" (compelled consent regarding commerce), (C) not to contract, specifically the right of choice regarding choice of law (compelled consent regarding choice of law), and (D), given the ID feature of a "drivers license," not to associate with any particular "church" (compelled consent regarding religious/political affiliation). *See also* § 371.

**18 U.S.C. §§ 1341 AND 1349.**

WEEKS hasn't mailed *any*thing. HALE has done the mailing. But WEEKS knows the content of the mail, including the threats for arrest for non-appearance in a matter over which HALE has no subject matter jurisdiction. WEEKS also knows the bogus nature of this case. By refusing to dismiss this facially bogus case, WEEKS both conspires with HALE and aids and abets her mail fraud.

**18 U.S.C. §§ 1512(b) AND (k).**

Regarding WEEKS' conspiracy with HALE, et al., to engage, perpetuate, and aid and abet HALE's witness tampering, WEEKS knows of all tampering dished out by HALE against Taylor. WEEKS has no case, but he refuses to dismiss it and thereby withdraw from the conspiracy. By continuing to prosecute the bogus case, WEEKS continues to

tamper with Taylor, directly, state and federal.

**18 U.S.C. §§ 1513(e)([1]) AND (e)(2).**

Regarding retaliation, WEEKS knows of all the retaliation dished out by HALE against Taylor. With the intent to retaliate, WEEKS both acts directly and through HALE (allowing HALE to have her way with Taylor) by refusing to dismiss the bogus case and thereby withdraw from the conspiracy.

**PENAL CODE § 31.03.**

WEEKS is a principal in the primary theft-in-progress offence. The effort is to deprive Taylor of some amount of money, as a "fine," "justified" by a conviction of "driving" without a "drivers license," despite the fact that Taylor wasn't engaged in "transportation." He was "traveling."

WEEKS is the principal in the secondary theft-in-progress offence. By refusing to dismiss this bogus case, WEEKS perpetuates HALE's deception(s).

Regarding the punishment level, see this same discussion for HALE.

**PENAL CODE § 39.02.**

WEEKS has knowingly and intentionally refused to dismiss the bogus case. Thus, he intends to gain a benefit for STATE and/or COUNTY and/or CITY, thus himself, and he intends to harm or defraud Taylor under color of law and office.

**PENAL CODE § 39.03(a).**

Given the foregoing, it's clear that WEEKS has committed official oppression. PENAL CODE § 39.03(a), in particular (a)(1) and (a)(2).

**PENAL CODE § 20.02.**

While the "official" "restrainor" is STATE, WEEKS has so outrageously prolonged the case,

thereby *greatly* assisting and aiding and abetting, by intentionally and/or knowingly refusing to dismiss a case for which he has never had evidence, as to involve himself personally in the maintenance of the unlawful restraint.

**PENAL CODE § 36.06.**

WEEKS started off with criminal violations of Taylor's rights. Then, when Taylor sued, WEEKS has not only aided and abetted HALE's criminal acts but also his own by refusing to dismiss the bogus case. Thus, WEEKS continues to retaliate against Taylor and to tamper with him as a witness who exposes the "transportation" scam.

**ORGANIZED CRIME ENHANCEMENT.**

Given the foregoing criminal conduct, WEEKS' punishment level, thus civil damages level, is enhanced by PENAL CODE § 72.02(a)(1), organized crime. WEEKS is one of at least three conspirators engaged in the felony-level theft-in-progress crimes against Taylor. Moreover, WEEKS' punishment level, thus civil damages level, is enhanced by PENAL CODE § 72.02(a)(9). WEEKS is one of at least three conspirators engaged in retaliation and witness tampering against Taylor, which is "any offense under Chapter 36."

Equitable remedies.

WEEKS ***must*** be a party for purposes of the injunctive relief requested. *Cf. Coeur d'Alene Tribe.*

**22. Is GAINES lawfully dismissed from this case?**

In the municipal court: STATE had no standing; hence, GAINES never had jurisdiction.

Section 521.021 defines no offence; hence, none is charged. *Cf. Smith* (principles applied on element of "recklessness"). "An information must allege in plain and intelligible language all the facts and circumstances necessary to establish all the material elements of the offense charged." *Reeves*, 162 S.W.2d at 705; Art. 21.02(7). A "complaint," like an "information," must charge an offense.

Moreover, Taylor not only was not engaging in "transportation" but also is not liable in the capacity charged. In short, since nothing about the Transp. Code ***can*** apply, STATE has no "actual grievance." *See Sunset Valley*; *Tex. Dept. of Parks & Wildlife v. Miranda*. *Cf. Defenders of Wildlife*.

Further, the clerk, thus the judge, is the complaining witness, rendering GAINES ***disqualified***. *See* Question 20.

Since GAINES had no jurisdiction, he also has no immunity. *Cf. Halsey* (absolute immunity protects discretion exercised ***within*** the scope of jurisdiction); *Pierson* (citing *Bradley*) (same).

GAINES' criminal conduct.

**18 U.S.C. §§ 241, 242.**

*See* Questions 20 and 21.. GAINES has conspired with HALE, WEEKS, CITY, COUNTY, and STATE to injure, oppress, threaten, or intimidate Taylor as a direct result of his exercise of and assertion of his rights.

**18 U.S.C. §§ 1341 AND 1349.**

GAINES is an early participant in the scheme for which the mails have been used, mostly by HALE, for its perpetuation. Maybe GAINES renounced by leaving the bench.

**18 U.S.C. §§ 1512(b) AND (k).**

GAINES is an early participant in the scheme and conspiracy. HALE, with full support by WEEKS, has witness-tampered Taylor. Maybe GAINES has renounced.

**18 U.S.C. §§ 1513(e)([1]) AND (e)(2).**

GAINES is an early participant in the scheme and conspiracy. HALE, with full support by WEEKS, has retaliated (and retaliated and retaliated) against Taylor. Whether or not GAINES has withdrawn, Taylor expects that the Notice issue, from April, 2007, looks a lot different now.

**PENAL CODE § 31.03.**

GAINES is a principal in the primary theft-in-progress offence; thus, so is CITY. The effort is to deprive Taylor of some amount of money, as a "fine," "justified" by a conviction of "driving" without a "drivers license," despite the fact that Taylor wasn't engaged in "transportation." He was "traveling."

GAINES may also end up a conspirator in the secondary theft-in-progress offence. By way of deception, *see* PENAL CODE § 31.01(1)(A), (B), (E), HALE has charged a higher bond. As discussed in Question 21 and 22, that may render the whole matter a felony-level theft offense.

**PENAL CODE § 39.02.**

With the intent to gain a benefit for STATE and/or COUNTY and/or CITY, thus himself, GAINES

intended to harm or defraud Taylor under color of law and office.

**PENAL CODE § 39.03(a).**

Based on the foregoing, it's clear that GAINES committed official oppression. PENAL CODE § 39.03(a), in particular (a)(1) and (a)(2).

**PENAL CODE § 20.02.**

While the "official" "restrainor" is STATE, GAINES has contributed to prolonging the case, thereby assisting and aiding and abetting the illegal restraint, *see, e.g.*, PENAL CODE § 20.02, by intentionally and/or knowingly refusing to dismiss a case over which he never had jurisdiction.

**PENAL CODE § 36.06.**

GAINES is a member of the conspiracy that includes retaliation and witness-tampering. *See* Questions 20 and 21.

**ORGANIZED CRIME ENHANCEMENT.**

Being a member of the theft activity and the retaliation and witness-tampering activity, there being at least three people involved, the foregoing criminal conduct, thus also the civil damages level, is enhanced by PENAL CODE § 72.02(a)(1) and (a)(9), organized crime.

Equitable remedies.

GAINES ***must*** be a party for purposes of the injunctive relief requested. *Cf. Coeur d'Alene Tribe.*

**23. Is CITY lawfully dismissed from this case?**

CITY has acted commercially throughout. CITY, through its employees, issued that bogus "ticket." CITY, through its court system, participated in all the crimes discussed in the foregoing Questions. CITY is at least conspirator, if not also an aidor and abettor, in all criminal activities and a beneficiary of the financial gain obtained through the enforcement of the "transportation" code. CITY has participated directly in the litigation. CITY has been deliberately indifferent, *Brown*, 520 U.S. at 409, by overtly failing to train its law enforcement officers, its prosecutors, and its judges regarding the limits of the "transportation" code.

City has no immunity. Moreover, City ***must*** be a party for purposes of the injunctive relief requested. *Cf. Coeur d'Alene Tribe.*

Note on CITY's liability. The present judicial structure renders muni. courts practically immune from direct review. That leaves (compels) one and only one mechanism for "direct review."

**24. Is COUNTY lawfully dismissed from this case?**

COUNTY has acted commercially throughout. *Cf. Northern Ins. Co.* (county had no "immunity" defense as it was not an "arm of the state") (Why not? Among other reasons, it was acting commercially. "The County owns, operates, and maintains the Causton Bluff Bridge ...." 547 U.S. at 192); *Hess* (commercial entity not cloaked with immunity). COUNTY, through its employees, as agent for

STATE, has prosecuted that bogus "ticket" case. COUNTY's policy is to defy the applicable law and to allow its officers, employees, and/or agents to violate all laws necessary to keep all objections to the "transportation" code from ever seeing the light of day. COUNTY is at least conspirator, if not also an aidor and abettor, in all criminal activities and a beneficiary of the financial gain obtained through the enforcement of the "transportation" code. COUNTY has been deliberately indifferent, *Brown*, 520 U.S. at 409, by overtly failing to train its law enforcement officers, its prosecutors, and its judges regarding the limits of the "transportation" code.

COUNTY has no immunity. Moreover, COUNTY ***must*** be a party for purposes of the injunctive relief requested. *Cf. Coeur d'Alene Tribe.*

**25. Is STATE lawfully dismissed from this case?**

Why are we here?

STATE cannot compel commerce, *Griswold*, choice of law, *Ogden*, or political/religious affiliation, §§ 241, 242, § 1983, etc.

Overt waiver.

STATE ***initiated*** the litigation and in a way that doesn't allow for counter-claims. Thus, STATE can jolly well expect to get sued for its criminal commercial conduct in ***any*** forum suitable for that litigation, ***especially*** the federal court, ***especially*** where STATE violates federal laws. By initiating litigation against Taylor, STATE waived immunity. *Fidelity and Deposit Co. Cf. Metro. St. Louis Sewer Dist.* (STATE waived immunity by assuming role as plaintiff); *Skelton. Fla. Prepaid* is much more of a

study of congressional/legislative limits than a statement on immunity.

Commercial conduct.

Moreover, STATE has acted commercially throughout. *Cf. Northern Ins. Co.* (county had no "immunity" defense as it was not an "arm of the state"); *Hess* (commercial entity not cloaked with immunity). It's not CITY's or COUNTY's "transportation" code, but ***STATE's***, that is the basis for STATE's claim. It's ***outrageous*** for STATE to seduce its agents, into maliciously prosecuting Taylor and otherwise criminally violating Taylor, via promises, however communicated, of financial gain, and then duck out under the "Eleventh Amendment!" STATE is the principal on whose behalf both CITY and COUNTY, through their respective officers, employees, etc., act as agent. STATE is at least conspirator, if not also an aidor and abettor, in all criminal activities and a beneficiary of the financial gain obtained through the enforcement of ***STATE's*** "transportation" code. **STATE** has been deliberately indifferent, *Brown*, 520 U.S. at 409, by overtly failing to train its law enforcement officers, its prosecutors, and its judges regarding the limits of ***its*** "transportation" code.

Moreover, STATE ***must*** be a party for purposes of the declaratory judgment relief requested, i.e., the statutory challenges, as well as the injunctive relief requested. *Cf. Coeur d'Alene Tribe.*

**Costs for service**

**26. Is STATE liable to Taylor for the (additional) costs for service?**

For all purposes of the matters relevant to this suit, STATE is a commercial entity. It's impossible for it to be anything but a commercial entity, given that it exists in and for purposes of "enforcing" the "funny money" scam. *See* [41]. Taylor labels STATE as a federal corporation. If that's incorrect, discovery will provide any necessary adjustment information. But, whatever STATE's formal organizational structure, it's ***exactly*** the type of commercial entity that most certainly ***is*** subject to waiver of service provisions. *See* FED. R. CIV. P. 4(d)(1). *But see* [35].

## Remedies and Relief Requested

Given the foregoing, Taylor requests relief as follows:

1. Grant this petition, issue the writ of certiorari, and take jurisdiction;
2. Reinstate this case in all respects;
3. Strike [34], for overt lack of consent of Record;
4. Strike [35], for overt lack of signature authority;
5. Declare the mechanism by which a non-consenting party asserts that non-consent and/or that consent, i.e., whether "bulldozing" is lawful;
6. Compel the Northern District to rewrite its "Consent to Proceed" form to recognize the "for all times and purposes" nature of unanimous

consent to magistrate participation;

7. Strike ND TX R. 16.2;

8. Strike Special Order 3-251, and all versions of its attached charts, or else order it rewritten to recognize that consent analysis starts at filing;

9. Strike Special Order 2-59, along with Miscellaneous Order No. 6, in all of its versions, or order that policy rewritten to recognize that consent analysis starts at filing;

10. Allow the Clerk to refuse to file "referral" "orders" where the Record lacks overt unanimous consent to magistrate participation;

11. Allow the Clerk to refuse to file "orders" by unconsented-to magistrates;

12. On Remand, instruct LINDSAY not to participate;

13. Either define "transportation" or declare the entire "transportation" code void for vagueness; alternatively, certify the issue to STATE's Supreme Court;

14. Declare and confirm that "vehicle," "motor vehicle," "drive," and "operator" all depend on "transportation," i.e., that until there's "transportation" ***use*** of the conveyance, there is no "vehicle," "motor vehicle," "driving," or "operating," as a matter of law;

15. Either define "this state" or declare the entire "transportation" code void for vagueness; alternatively, certify the issue to STATE's Supreme Court;

16. Confirm that *Rothgery* applies and that "any

proceeding," for purposes of Art. 45.018(b), includes not only the "arraignment" but also any other pre-trial hearing or ruling;

17. Confirm that the first "arraignment" in the municipal court is adequate for purposes of "trial *de novo*" in the county court;

18. Confirm that "commenced" is an event that happens once per trial, and that a trial *de novo* is but a continuation of the municipal court trial;

19. Declare that TRANSP. CODE § 521.021 fails to define any offense; and

20. Order STATE to reimburse Taylor for the (additional) costs of service on STATE.

In addition, Taylor requests

21. The opportunity to brief any additional issues the Court may identify;

22. The argument calendar, if appropriate;

23. Costs; and,

24. Any and all relief at law, in equity, or sui generis to which he may show himself justly entitled.

Respectfully submitted,

/s/ Harmon L. Taylor
Harmon L. Taylor
7014 Mason Dells Drive
Dallas, Texas 75230

## Appendices
## Table of Contents

Appendix A—Federal Courts ..... A-1
Appendix B—Municipal Court ..... B-1
Appendix C—County Court ..... C-1

Appendix A—Federal Courts ..... A-1

Rule 14.1(i)(i)—Appellate decision ..... A-1

2010 Sep. 24—Opinion and Judgment, with Sanctions Warning ..... A-1

Rule 14.1(i)(ii)—Additional Orders ..... A-4

2009 Sep. 30—[43] ND TX Final Judgment ..... A-4

2009 Sep. 30—[42] Memorandum Opinion and Order ..... A-6

2008 Sep. 30—[26] Memorandum Opinion and Order ..... A-9

2008 Oct. 31—[27] Order ..... A-28

2008 Oct. 31—[28] Judgment ..... A-30

2009 May 1—[30] Order ..... A-32

Rule 14.1(i)(iii)—Rehearing, or other extension .. A-35

None ..... A-35

Rule 14.1(i)(iv)—Judgment of different date ..... A-35

None ..... A-35

Rule 14.1(i)(v)—Statutes and Rules ..... A-35

Texas Transportation Code ..... A-35
Sec. 521.021. LICENSE REQUIRED. ..... A-35
Sec. 502.001. DEFINITIONS. ..... A-35
Sec. 522.003. DEFINITIONS. ..... A-36
Sec. 541.001. PERSONS ..... A-37
Sec. 541.201. VEHICLES. ..... A-37

Texas Criminal Procedure Code ..... A-38
Art. 27.14. Plea of Guilty or Nolo Contendere in Misdemeanor ..... A-38
Art. 44.17. Appeal to County Court, How Conducted. ..... A-39
Art. 44.181. Defects in Complaint ..... A-39
Art. 45.018. Complaint [Municipal Court] A-39
Art. 45.019. Requisites Of Complaint [Municipal Court] ..... A-40
Art. 45.0215. Plea by Minor and Appearance of Parent ..... A-42
Art. 45.042. Appeal. ..... A-42

Threshold Jurisdictional Issues—Municipal Court ..... A-43
Sec. 29.002. Creation. ..... A-43
Sec. 29.003. Jurisdiction ..... A-43
Section 1.01. Corporate Name. ..... A-45
Section 10.01. Municipal Court ..... A-45
Section 10.02. Judge of the Municipal Court. ..... A-45

Section 10.03. Clerk of the Municipal Court. ... A-46
Section 10.04. Process and Procedure in the Corporation Court. ... A-46
Section 10.05. Court Separate from all Departments. ... A-47
Section 2.01.02 Rules of construction. ... A-47

County Court. ... A-48
Art. 4.08. Appellate Jurisdiction of County Courts. ... A-48
Section 25.2382. Walker County Court at Law Provisions. ... A-48

ND TX Local Rules ... A-49
"Consent to Proceed" form ... A-49
ND TX R. 16.2 ... A-53
Special Order 3-251 (2006 Mar. 8) ... A-53
Miscellaneous Order No. 6. ... A-55
1982 Feb. 5. ... A-55
1994 Feb. 18. ... A-84
1996 Mar. 25 ... A-86
1997 Sep. 22. ... A-88
1998 Oct. 1. ... A-89
Special Order 2-59 (2005 May 5) ... A-92

Rule 14.1(i)(vi)—Additional Materials ... A-99

The "Ticket"—2007 Jan. 24 ... A-99

The "Complaint"—2007 Apr. 5 ... A-104

The "Agreement" – 2008 Oct. 29 ... A-106

Bond—2007 May—Notice of Appeal ... A-113

Appendix B—Municipal Court ..... B-1

2007 Feb. 19—Notice of hearing date ..... B-1

2007 Apr. 5—Judicial entry of plea for Taylor . B-3

2007 Apr. 5—Notice of trial setting ..... B-6

2007 Apr. 5—Viva voce ..... B-9
Regarding the non-existence of municipal court orders ..... B-9
Standard, routine objections taken personally? ..... B-9
Traditional, typical absences in municipal court Records ..... B-9
The first proceeding was the motion hearing. ..... B-10
The second proceeding was the "arraignment." ..... B-10
The third proceeding included both mandamus and injunctive orders issued *sua sponte*. ..... B-11
Epilog ..... B-15

2007 May 17—Advisory panel's verdict ..... B-16

Appendix C—County Court ..... C-1

2007 Aug. 10—First order, Notice of *Third* Arraignment, signed by Court Coordinator..... C-1

2007 Sep. 21—Clerical response to Taylor's Special Appearance, Motion to Strike or Rename 17 October Setting, First Motion to Dismiss, and First Motion to Quash ..... C-3

2007 Oct. 17—First reset..... C-4

2007 Nov. 28—Hearing on Taylor's motions—All motions denied ..... C-6

2007 Dec. 14—Second reset, Email follow-up to phone conversation ..... C-6

2008 Feb. 6—THIRD reset ..... C-7

2008 Apr. 28—FOURTH reset ..... C-9

2008 Sep. 9—FIFTH reset..... C-11

2008 Oct. 29—SIXTH reset ..... C-13

2009 Feb. 2—Notice of Warrant for Arrest..... C-15

**Appendix A—Federal Courts**

**Rule 14.1(i)(i)—Appellate decision**

**2010 Sep. 24—Opinion and Judgment, with Sanctions Warning**

United States Court of Appeals
Fifth Circuit
**F I L E D**
September 24, 2010

Lyle W. Cayce
Clerk

**IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT**

---

No. 09-11057
Summary Calendar

---

HARMON LUTHER TAYLOR, an American national and a Texas national,

Plaintiff – Appellant

v.

BARBARA HALE, Individually and as Judge, County Court at Law; DAVID P WEEKS, Individually and as District Attorney, Walker County, JOHN GAINES, Individually and as Judge, Municipal Court; CITY OF HUNTSVILLE TEXAS, A municipal corporation; WALKER COUNTY TEXAS, A municipal corporation; STATE OF TEXAS, a federal corporation,

Defendants-Appellees

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:07-CV-1634

Before KING, DEMOSS, and DENNIS, Circuit Judges.

PER CURIAM: *

Harmon Luther Taylor (Taylor) appeals the district court's order dismissing his civil rights complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). FED. R. Civ. P. 12(b)(6). Taylor sued the defendants after receiving a traffic citation for driving without a license. Our review is de novo. *See True v.* [⊥ 2] *Robles*, 571 F.3d 412, 417 (5th Cir. 2009). Accepting all well-pleaded facts as true and viewing those facts in favor of the plaintiff, we must determine whether the plaintiff has stated a legally cognizable claim. *See In re Katrina Canal Breaches Litig.*, 495 F.3d 191, 205 (5th Cir. 2007). We may affirm dismissal on any basis supported by the Rule 12(b)(6) record. *See R2 Inv. LDC v. Phillips*, 401 F.3d 638, 642 (5th Cir. 2005). Taylor's failure to brief his arguments is a valid basis for affirming the dismissal of his complaint. *See Brinkmann v. Dallas County Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987). However, we also find that Taylor has failed to set forth a legally cognizable claim against the defendants. *See Heck v. Humphrey*, 512 U.S. 477, 486 –87 (1994); *see also Imbler v. Pachtman*, 424 U.S.

*Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

409, 430–31 (1976); *James v. Harris County*, 577 F.3d 612, 617 (5th Cir. 2009); *Mays v. Sudderth*, 97 F.3d 107, 110–11 (5th Cir. 1996). Further, with respect to Taylor's assertions regarding the magistrate judge and district court, we caution Taylor that any future filing containing abusive, disparaging and contemptuous language will result in the imposition of sanctions. *See Theriault v. Silber*, 579 F.2d 302, 303–04 (5th Cir. 1978).

AFFIRMED; SANCTION WARNING ISSUED.

**Rule 14.1(i)(ii)—Additional Orders**

**2009 Sep. 30—[43] ND TX Final Judgment**

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

| | | |
|---|---|---|
| **HARMON LUTHER TAYLOR, an American national and a Texas national,** | § | |
| Plaintiff, | § | |
| v. | § | Civil Action No. |
| | § | **3:07-CV-1634-L** |
| **BARBARA HALE and BARBARA HALE, individually and as Judge, County Court at law, et al.,** | § | |
| Defendants. | § | |

**FINAL JUDGMENT**

The court issues this Final Judgment pursuant to its Memorandum Opinion and Order, filed September 30, 2008; its Judgment, filed October 31, 2008; its Order, filed May 1, 2009; and its Memorandum Opinion and Order, filed September 30, 2009. It is therefore **ordered, adjudged** and **decreed** that Plaintiff Harmon Luther Taylor ("Plaintiff') take nothing against Defendants Barbara Hale, David P. Weeks, John Gaines (either in their individual or official capacities), Walker County and City of Huntsville; that all claims against these

Defendants are dismissed with prejudice, except that Plaintiff's state malicious prosecution claim is dismissed with prejudice until such time that Plaintiff can show that the state court criminal proceedings have terminated in his favor; that this action against Defendant State of Texas is dismissed without prejudice for lack of jurisdiction; that all relief requested by Plaintiff is denied; and that all allowable and reasonable costs are taxed against Plaintiff.

USCA5 507 [⊥ 2]

Signed this 30th day of September, 2009.

*/s/ Sam A. Lindsay*
Sam A. Lindsay
United States District Judge

USCA5 508

**2009 Sep. 30—[42] Memorandum Opinion and Order**

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

| | | |
|---|---|---|
| **HARMON LUTHER TAYLOR, an American national and a Texas national,** | § | |
| Plaintiff, | § | |
| v. | § | Civil Action No. |
| | § | **3:07-CV-1634-L** |
| **STATE OF TEXAS,** | § | |
| Defendant. | § | |

**MEMORANDUM OPINION AND ORDER**

Before the court is the State of Texas' Motion to Dismiss, filed August 12, 2009. After careful consideration of the motion, response, record, and applicable authority, the court **grants** the State of Texas' Motion to Dismiss.

## I. Background

The court set forth the factual background to this case in its Memorandum Opinion and Order dated September 30, 2008, and will repeat only what is necessary for purposes of this opinion; however, all findings and conclusions in that opinion are incorporated herein as if repeated verbatim. Harmon Luther Taylor ("Plaintiff" or "Taylor") filed this action against officials of Walker County, Texas; officials of the City of Huntsville, Texas; and the

State of Texas (the "State"). All parties have been dismissed by a previous ruling of the court, except the State. This lawsuit finds its genesis in a citation issued to Plaintiff on January 24, 2007, for "no driver's license." Plaintiff challenges the validity of the citations and related court proceedings that occurred in the Municipal Court of the City of Huntsville and the County Court at Law of Walker County as being unconstitutional in several respects. Plaintiff seeks monetary damages, injunctive and declaratory relief, and a stay of



the State criminal proceedings against him. The State has moved to dismiss pursuant to Rules 12(b)(1) and (6), and 12(h).

## II. Analysis

The State contends that the Eleventh Amendment to the United States Constitution jurisdictionally bars a claim against it and its agencies and cites, in support of this proposition, *Will v. Michigan Dep't of State Police*, 491 U.S. 58, 66 (1989) (Eleventh Amendment jurisdictionally bars suits against a state and their agencies unless the state waives immunity or Congress, pursuant to section five of the Fourteenth Amendment, intentionally abrogates immunity.); *see also Seminole Tribe of Florida v. Florida*, 517 U.S. 44, 56-58 (1996); *Texas v. Walker*, 142 F.3d 813, 820 (5th Cir. 1998). The Eleventh Amendment, however, does not bar a federal court from issuing prospective injunctive relief against a state official to prevent a continuing violation of federal law. *Pennhurst State Sch. &*

*Hosp. v. Halderman*, 465 U.S. 89, 102-03 (1984); *AT&T Comms. v. BellSouth Telecomms. Inc.*, 238 F.3d 636, 644 (5th Cir. 2001). In this case, however, only the State itself is a defendant. Plaintiff did not sue a state official, and therefore there is no basis to enjoin any state official's future conduct. None of the exceptions regarding the Eleventh Amendment is present. Accordingly, the action is jurisdictionally barred pursuant to the Eleventh Amendment.

## III. Conclusion

For the reasons stated herein, the court does not have jurisdiction to hear this case against the State. Accordingly, the court **grants** the State of Texas' Motion to Dismiss and **dismisses** this action without prejudice against the State. Pursuant to Rule 58 of the Federal Rules of Civil Procedure, the court will issue judgment by separate document.

USCA5 505 [⊥ 3]

**It is so ordered** this 30th day of September, 2009.

*/s/ Sam A. Lindsay*
Sam A. Lindsay
United States District Judge

**2008 Sep. 30—[26] Memorandum Opinion and Order**

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

| | | |
|---|---|---|
| **HARMON LUTHER TAYLOR, an American national and a Texas national,** Plaintiff, | § | |
| v. | § | Civil Action No. |
| | § | **3:07-CV-1634-L** |
| **BARBARA HALE and BARBARA HALE, individually and as Judge, County Court at law, et al.,** Defendants. | § | |

**MEMORANDUM OPINION AND ORDER**

Before the court are Defendants City of Huntsville and John Gaines' Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6), filed October 11,2007; and Defendants Barbara Hale, David P. Weeks, and Walker County's Rule 12(b)(6) and Rule 12(b)(3) Motion to Dismiss. After careful consideration of the motions, responses, record and applicable authority, the court **grants** Defendants City of Huntsville and John Gaines' Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6); **grants** Defendants Barbara Hale, David P. Weeks, and Walker County's Rule 12(b)(6) Motion to

Dismiss; and **denies as moot** Defendants Barbara Hale, David P. Weeks, and Walker County's Rule 12(b)(3) Motion to Dismiss.

## I. Procedural and [sic] Background

Harmon Luther Taylor ("Plaintiff") filed this action on September 25, 2007 against Barbara Hale, County Court at Law Judge for Walker County ("Judge Hale"); David P. Weeks, Walker County District Attorney ("DA Weeks"); Walker County; the City of Huntsville; City of Huntsville



Municipal Court Judge, John Gaines ("Judge Gaines"), and the State of Texas. Plaintiff's Original Complaint ("Complaint") is not a model of pellucid draftsmanship and, frankly, is quite confusing and often nonsensical from a legal perspective. From what the court can ascertain, Plaintiff challenges the validity of a citation issued to him for "no driver's license" and related court proceedings that occurred in the Municipal Court of the City of Huntsville and the County Court at Law of Walker County. He seeks injunctive relief, declaratory relief, a stay of the state criminal proceedings, and $10,000,000 in damages against Defendants for claims alleging malicious prosecution and violations of his constitutional rights. [1] The court now sets forth the facts as

[1] Plaintiff uses the term "non-constitutional" to describe certain acts of Defendants. The court is not going to play games with words and understands Plaintiffs Complaint to contend that certain actions of Defendants are allegedly unconstitutional; otherwise, he should not be in federal court. If he is not so contending, the court will readily dismiss this case for lack of

reflected by the Complaint and the exhibits that Plaintiff attached to it.

Plaintiff traveled from Dallas, Texas to Lake Jackson, Texas to visit his sister and her family. During his return trip to Dallas on January 24, 2007, while driving a motor vehicle within the corporate limits of Huntsville, Texas, Plaintiff was stopped for speeding. He was not issued a citation for speeding; however, he was cited for "no driver's license."

Plaintiff appeared for the "no driver's license" charge before the City of Huntsville Municipal Court on April 5, 2007. He refused to enter a plea, and the judge entered a plea of not guilty for him for driving without a driver's license. The complaint was filed in Huntsville Municipal Court on April 5, 2007, and charged Plaintiff with operating a motor vehicle upon a public street without having "a valid Texas driver's license as required by Texas Transportation Code Section 521.021." The case proceeded to trial on May 17, 2007, before Judge Gaines and a jury, and the jury found



Plaintiff guilty of not having a driver's license while operating a motor vehicle on a public street. The jury assessed a fine of $100 against Plaintiff. Judge Gaines entered the jury's verdict and ordered Plaintiff to pay the fine of $100 and $65 in court costs for a total of $165.

Plaintiff posted an appeal bond for $335 in the County Court of Law of Walker County, Texas on May 17, 2007. The court does not know the

---

subject matter jurisdiction because no federal question exists.

disposition of this appeal, if any, because the parties have not updated the record with respect to the current status of the state court criminal proceedings regarding Plaintiff's appeal.

## II. Motion to Dismiss - Standard for Dismissal Pursuant to Rule 12(b)(6)

To defeat a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6), a plaintiff must plead "enough facts to state a claim to relief that is plausible on its face." *Bell Atlantic Corp. v. Twombly*, -- U.S. --, 127 S. Ct. 1955, 1974 (2007). While a complaint need not contain detailed factual allegations, it must set forth "more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." *Id.* at 1965 (citation omitted). The "[f]actual allegations of [a complaint] must be enough to raise a right to relief above the speculative level, on the assumption that all the allegations in the complaint are true (even if doubtful in fact)." *Id.* (quotation marks, citations, and footnote omitted).

In reviewing a Rule 12(b)(6) motion, the court must accept all well-pleaded facts in the complaint as true and view them in the light most favorable to the plaintiff. *Sonnier v. State Farm Mutual Auto. Ins. Co.*, 509 F. 3d 673, 675 (5th Cir. 2007); *Martin K. Eby Constr. Co. v. Dallas Area Rapid Transit*, 369 F. 3d 464, 467 (5th Cir. 2004); *Baker v. Putnal*, 75 F.3d 190, 196 (5th Cir. 1996). In ruling on such a motion, the court cannot look beyond the pleadings. *Id.*; *Spivey v. Robertson*, 197 F.3d 772, 774 (5th Cir. 1999), *cert. denied*, 530 U.S. 1229 (2000). The pleadings include the

complaint and any documents attached to it. *Collins v. Morgan Stanley Dean Witter*, 224 F.3d 496, 498-99 (5th Cir. 2000). Likewise,"'[d]ocuments that a defendant attaches to a motion to dismiss are considered part of the pleadings if they are referred to in the plaintiffs complaint and are central to [the plaintiff's] claims.'" *Id.* (quoting *Venture Assocs. Corp. v. Zenith Data Sys. Corp.*, 987 F.2d 429, 431 (7th Cir. 1993)).

The ultimate question in a Rule 12(b)(6) motion is whether the complaint states a valid claim when it is viewed in the light most favorable to the plaintiff. *Great Plains Trust Co v. Morgan Stanley Dean Witter*, 313 F.3d 305, 312 (5th Cir. 2002). A court, however, is not to strain to find inferences favorable to the plaintiff and is not to accept conclusory allegations, unwarranted deductions, or legal conclusions. *R2 Invs. LDC v. Phillips*, 401 F.3d 638, 642 (5th Cir. 2005) (citations omitted). The court does not evaluate the plaintiffs likelihood of success; instead, it only determines whether the plaintiff has a legally cognizable claim. *United States ex rel. Riley v. St. Luke's Episcopal Hosp.*, 355 F.3d 370, 376 (5th Cir. 2004).

## III. Analysis

### A. Contentions of the Parties

#### 1. Plaintiffs Contentions

Plaintiff contends in this Complaint that: (1) he was not served with a "complaint" in accordance with article 45.018(b) of the Texas Code of Criminal Procedure prior to his first arraignment in the

Municipal Court of Huntsville and that, therefore, his due process rights were violated when the case proceeded, and continue to be violated through the prosecution of his case in the Walker County Court at Law; (2) he should not be "compelled" to obtain a driver's license when he was not operating his motor vehicle for a "commercial" purpose; and (3) the purpose of the



criminal proceedings against Plaintiff is to compel him to obtain a driver's license, which forces him to associate politically or religiously with "those who claim to be citizens' of the State of Texas commercial system."

### 2. Defendants' Contentions

#### a. Judge Gaines and City of Huntsville

Judge Gaines and City of Huntsville contend that Plaintiff fails to state a claim upon which relief can be granted under 42 U.S.C. § 1863. [2] Defendants also contend that before Plaintiff can bring an action pursuant to section 1983, his conviction for driving without a driver's license must be invalidated. As a separate defense, Judge Gaines contends that judicial immunity bars this action against him. Finally, these Defendants contend that venue is improper in the Northern District of Texas and that

[2] This is obviously an inadvertent mistake because the type of action Plaintiff has filed against state and local officials is one that is brought pursuant to 42 U.S.C. § 1983, and this is how the court will view Plaintiff's federal claims. Moreover, Defendants later cite the correct section of the statute.

this action should be heard in the Southern District of Texas. They request that the court dismiss this action or transfer it to the Southern District of Texas.

**b. Judge Hale, DA Weeks, and Walker County**

These Defendants contend that Plaintiff has failed to state a claim upon which relief can be granted under *Bivens/Sosa* or 42 U.S.C. § 1983, for a "commercial claim," or for malicious prosecution. Judge Hale contends that Plaintiff's claim against her is barred by the doctrine of judicial immunity. Walker County and Judge Hale also contend that Plaintiff" s claims against them for malicious prosecution and *Bivens/Sosa* violations are barred by estoppel. Finally, these Defendants contend that Plaintiff is not entitled to declaratory or injunctive relief.

USCA5 414 [⊥ 6]

**B. The Driver's License Saga**

The primary statute that serves as the genesis of this action is section 521.021 of the Texas Transportation Code. This statute provides, "[a] person, other than a person expressly exempted under this chapter, may not operate a motor vehicle on a highway in this state unless the person holds a driver's license issued under this chapter." Tex. Transp. Code Ann. § 521.021 (Vernon 2007). A "highway or street" is defined as "the width between the boundary lines of a publicly maintained way any part of which is open to the public for vehicular traffic." Tex. Transp. Code Ann. § 541.302(5) (Vernon 1999). Persons exempted from the license

requirement include the following:

> (1) a person in the service of the state military forces or the United States while the person is operating an official motor vehicle in the scope of that service;
> (2) a person while the person is operating a road machine, farm tractor, or implement of husbandry on a highway, unless the vehicle is a commercial motor vehicle under Section 522.003;
> (3) a nonresident on active duty in the armed forces of the United States who holds a license issued by the person's state or Canadian province of residence; and
> (4) a person who is the spouse or dependent child of a nonresident exempt under Subdivision (3) and who holds a license issued by the person's state or Canadian province of residence.

Tex. Transp. Code Ann. § 521.027 (Vernon 2007). A person required to hold a license under section 521.021 must: "(1) have in the person's possession while operating a motor vehicle the class of driver's license appropriate for the type of vehicle operated; and (2) display the license on the demand of a magistrate, court officer, or peace officer." Tex. Transp. Code Ann. § 521.025 (Vernon Supp. 2007). Any person who violates this provision commits a misdemeanor offense and may be punished by a fine not to exceed $200, provided that it is the first conviction, or no other such conviction has occurred within a year. Based on the record before the court, Plaintiffs conviction



falls into this category, and he could only be

punished by a fine not to exceed $200. Tex. Transp. Code Ann. § 521.025(c) (Vernon 2007).

### C. Failure to State a Claim

#### 1. Plaintiff's Due Process Claim

Plaintiff's contention that he never received notice of a complaint prior to his arraignment on April 5, 2007, is without merit. Taylor simply misreads and misapplies the applicable law. The notice he received complied with due process and the applicable state statutes.

Article 45.018(b) of Texas Code of Criminal Procedure, which applies to justice and municipal courts, provides, "[a] defendant is entitled to notice of a complaint against the defendant not later than the day before the date of any proceeding in the prosecution of the defendant under the complaint." Tex. Code Crim. Proc. Ann. art. 45.018(b) (Vernon 2006). Plaintiff apparently takes the position that the formal complaint was not provided to him on or before the day prior to his arraignment on April 5, 2007. This statute, however, must be read in conjunction with article 27.14(d), which provides in part:

> If written notice of an offense for which maximum possible punishment is by fine only or of a violation relating to the manner, time, and place of parking has been prepared, delivered, and filed with the court and a legible duplicate copy has been given to the defendant, the written notice serves as a complaint to which the defendant may plead "guilty," "not guilty," or "nolo contendere." If

> the defendant pleads "not guilty" to the offense, a complaint shall be filed that conforms to the requirements of Chapter 45 of this code, and that complaint serves as an original complaint.

Tex. Code Crim. Proc. Ann. art. 27.14(d) (Vernon 2006).

The record conclusively establishes that Plaintiff received proper notice of the charge against him. He was issued citation No. 213470, which fully apprised him of the traffic charge against him.

USCA5 416 [⊥ 8]

He signed the citation and was provided a copy, which informed him when he had to appear in Huntsville Municipal Court. As Plaintiff's offense was punishable by fine only, the citation he received on January 24, 2007, served as notice of the charge against him and fully complied with the "notice of complaint" provision. At the arraignment on April 5, 2007, Plaintiff refused to enter a plea, and the court entered a plea of "not guilty" on behalf of Plaintiff. Because a "not guilty" plea was entered, a formal complaint was filed on April 5, 2007, charging Plaintiff with a violation of section 521.021 of the Texas Transportation Code. The complaint complied with Chapter 45 of the Code of Criminal Procedure. A formal complaint is not required unless a defendant pleads "not guilty." That the court entered the plea for Plaintiff is of no moment. It is so well-settled in criminal jurisprudence that the court will enter a plea of "not guilty" when a defendant refuses to plead that this court will not even bother to cite any authority for this principle of law. For the reasons stated herein, Plaintiff properly received

notice of the charge against him in the Huntsville Municipal Court, and no due process violation occurred. The court also concludes that Judge Gaines had jurisdiction to hear the offense for which Plaintiff was charged and prosecuted.

By appealing his conviction, Plaintiff necessarily invoked the jurisdiction of the Walker County Court at Law. The court agrees for the reasons expressed by the Walker County Defendants that no violations of due process have occurred in the Walker County Court at Law, which was presided over by Judge Hale, and that Judge Hale has jurisdiction to entertain Plaintiff's appeal of his conviction in the Huntsville Municipal Court.

### 2. Plaintiffs Commercial Activity and Travel Arguments

Plaintiff appears to contend that he cannot be required to obtain a driver's license because he was not operating a motor vehicle for a commercial purpose or activity. When Plaintiff was stopped



by the law enforcement officers, he contends that he was merely "traveling" and that the State of Texas has no authority to regulate "traveling." The State, according to Plaintiff, can regulate "commercial activity" through the requirement of a license but not "traveling." He contends that the term "operate" means and refers to someone engaging in commercial activity in the State. The gravamen of Plaintiff's argument is that because he was "traveling" and not engaging in a commercial activity, he did not "operate" a motor vehicle and was therefore not

required to have a driver's license. Taylor offers no authority, legal or otherwise, for his definition. The court concludes that Plaintiff's argument is without merit.

The word "operate" means "to perform a function: exert power or influence." Merriam Webster's Collegiate Dictionary 869 (11th ed. 2004). That Plaintiff can argue that he was not "operating" a motor vehicle but merely "traveling" strains credulity. Plaintiff was traveling, but he was also "operating" a vehicle; otherwise, this would mean that the vehicle "operated" itself and took a roundtrip from Dallas to Lake Jackson without any act performed by Plaintiff. "Operating," as the word is used in section 521.021, does not mean or refer to commercial activity.

To the extent that Plaintiff asserts that the license requirement interferes with his right to travel, such argument is without merit. Requiring one to obtain a license to operate a motor vehicle on a state's public highway is not an impermissible or undue burden on interstate travel. States have a compelling interest to ensure the safety and welfare of those persons traveling on its public roadways. Ensuring that one can safely operate a motor vehicle and is familiar with the traffic laws is a legitimate exercise of a state's police powers and presents no constitutional impediment to the right to interstate travel.

USCA5 418 [⊥ 10]

### 3. Political or Religious Affiliations with the "church of the State of Texas"

Plaintiff appears to allege that if he is required to comply with section 521.021, he is being compelled to affiliate politically or religiously with the "church of the State of Texas." To the extent Plaintiff attempts to invoke the protections of the First Amendment to the United States Constitution, such attempt fails. Section 521.021 does not infringe on one's political or religious beliefs, or right to associate. Section 521.021 is a neutral law to advance a compelling state interest and in no way favors or discriminates against any person because of his or her political or religious beliefs. This statute applies to all persons who operate a motor vehicle on a highway or street, except for those who are exempt under section 521.027. None of the exemptions is based on a person's political or religious beliefs, or with whom a person is affiliated or associated. To the extent Plaintiff attempts to allege a First Amendment claim, he fails to state a claim upon which relief can be granted.

## D. Judicial Immunity

Under the doctrine of judicial immunity, a judge is entitled to absolute immunity for his or her judicial or adjudicatory acts. *Forrester v. White*, 484 U.S. 219, 225-27 (1988); *Pierson v. Ray*, 386 U.S. 547, 554 (1967). Judicial "immunity applies even when the judge is accused of acting maliciously and corruptly." *Mireles v. Waco*, 502 U.S. 9, 11, (1991) (quoting *Pierson v. Ray*, 386 U.S. at 554). Further, "[a] judge is absolutely immune from liability for his

judicial acts even if his exercise of authority is flawed by the commission of grave procedure errors." *Stump v. Sparkman*, 435 U.S. 349, 359 (1978). A judge is not entitled to judicial immunity only when (1) the action is "not taken in the judge's judicial capacity," or (2) the action is "taken in the complete absence of all jurisdiction." *Mireles*, 502 U.S. at 11-12. In deciding whether a judge is entitled to judicial immunity a court relies on following four factors:

USCA5 419 [⊥ 11]

> (1) whether the precise act complained of is a normal judicial function; (2) whether the acts occurred in the courtroom or appropriate adjunct spaces such as the judge's chambers; (3) whether the controversy centered around a case pending before the court; and (4) whether the acts arose directly out of a visit to the judge in his official capacity.

*Malina v. Gonzales*, 994 F.2d 1121, 1124 (5th Cir. 1993) (citation omitted). State law applies the same test for judicial immunity. *See Dallas County v. Halsey*, 87 S.W.3d 552, 554 (Tex. 2002); *Hawkins v. Walvoord*, 25 S.W.3d 882, 890 (Tex. App. — El Paso 2000, pet. denied).

Plaintiff sued Judges Gaines and Hale simply because they presided over the respective prosecutions in municipal and county court. As the court has previously ruled, both had jurisdiction to preside over matters involving Plaintiff that were legally before them. The court has considered the four-part test to determine whether judicial, immunity applies and concludes that both judges are entitled to judicial immunity. The judges did not act

outside their judicial capacities and did not act in the complete absence of all jurisdiction. The judges simply did what judges are supposed to do, that is, preside over judicial matters coming before them.

### E. Malicious Prosecution

Under Texas law, a claim of malicious prosecution consists of seven elements: "(1) the commencement of a criminal prosecution against the plaintiff; (2) causation (initiation or procurement) of the action by the defendant; (3) termination of the prosecution in the plaintiff's favor; (4) the plaintiffs innocence; (5) the absence of probable cause for the proceedings; (6) malice in filing the charge; and (7) damage to the plaintiff." *Hart v. O'Brien*, 127 F.3d 424, 451 (5th Cir. 1997), *cert. denied*, 525 U. S. 1103 (1999) (citing *Richey v. Brookshire Grocery Co.*, 952 S.W.2d 515, 517 (Tex. 1997)). Plaintiff has not shown that he is innocent of the charges against him, that the prosecution has terminated in his favor, that no probable cause existed to prosecute him, or that any



Defendant acted with malice toward him in filing charges against him. The criminal matter is pending, and nothing has been provided to the court regarding the status of the state criminal proceedings against Plaintiff. Moreover, Plaintiff has acknowledged that he did not have a driver's license, and that one is not required because he was "traveling." That he maintains he was "traveling" rather than "driving" or "operating" a motor vehicle is a nonsensical distinction.

## IV. Miscellaneous

### A. *Bivens/Sosa* Claim

Plaintiff repeatedly references a *Bivens/Sosa* claim. A *Bivens* action is "an implied private action for damages against federal officers alleged to have violated a citizen's constitutional rights." *Correctional Servs. Corp. v. Malesko*, 534 U.S. 61, 66 (2001) (citing *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971)). There are no federal officers who are parties to this action. No legal or factual basis exists for Plaintiff to assert a *Bivens* claim, and Plaintiff has failed to state a claim upon which relief can be granted.

Plaintiff also references a *Sosa* claim. This is apparently a reference to *Sosa v. Alvarez-Macham*, 542 U.S. 692 (2004). In *Sosa*, Humberto Alvarez-Macham ("Alvarez"), a Mexican national, was abducted from Mexico by a group of fellow Mexican nationals who had been hired by Drug Enforcement Agency ("DEA") agents to seize him and bring him to the United States to stand trial for the murder of a DEA agent. After his acquittal, Alvarez sued the United States for false arrest under the Federal Tort Claims Act and sued Sosa, a member of the group that seized him, for violating the law of nations under the Alien Tort Statute. As with *Bivens*, the court fails to see the relevance of *Sosa* to Plaintiffs claim. Plaintiff was not kidnapped and taken to a foreign country by



federal agents or someone acting on their behalf. *Sosa* has no relevance to the matters of which

Plaintiff complains regarding this action.

### B. Conspiracy Claim

Plaintiff also loosely refers to an alleged conspiracy among some Defendants. "A conspiracy claim may be charged under section 1983 as the legal mechanism through which to impose liability but a conspiracy claim is not actionable without an actual violation of section 1983." *Hale v. Townley*, 45 F.3d 914, 920 (5th Cir. 1995) (internal quotation marks and citation omitted). As there is no underlying constitutional violation, Plaintiff's conspiracy claim fails as a matter of law.

### C. Liability of the City of Huntsville and Walker County

A governmental entity can be sued and subjected to monetary damages and injunctive relief under 42 U.S.C. § 1983 only if its official policy or custom causes a person to be deprived of a federally protected right. *Board of the County Comm'rs of Bryan County v. Brown*, 520 U.S. 397, 403 (1997); *Monell v. New York City Dept of Soc. Servs.*, 436 U.S. 658, 694 (1978). The court has held that Plaintiff has failed to state a claim upon which relief can be granted with respect to the individual Defendants. Since Taylor has failed to state a constitutional claim upon which relief can be granted, he has suffered no constitutional injury. Accordingly, even if Plaintiff were to adequately set forth an unconstitutional policy or custom, his claim fails as a matter of law because the court has found that there is no underlying constitutional violation. When there is no underlying constitutional violation, the policy or

custom is irrelevant or "quite beside the point." *City of Los Angeles v. Heller*, 475 U.S. 796, 799 (1986); *see also Saenz v. Heldenfels Bros., Inc.*, 183 F.3d 389, 392-93 (5th Cir. 1999). If a person suffers no constitutional injury at the hands of governmental employees or officers, the allegedly unconstitutional policy or custom could not have been the cause of the harm



to that person. For this reason, the City of Huntsville and Walker County are entitled to dismissal of Plaintiff's claims against them.

**D. Alternative Grounds for Dismissal**

All Defendants have made arguments to dismiss on grounds not addressed by the court. In light of its ruling herein, the court finds it unnecessary to address the alternative arguments raised by Defendants.

**E. Status of Service on State of Texas**

The docket does not reflect that the State of Texas has been served. The State will be the only Defendant remaining. Plaintiff is to effect service on the State by **October 31, 2008**, or inform the court in writing whether he intends to maintain this action against the State. If service is not effected within the time allowed by the court, or if good cause is not shown for the failure to effect service on the State, the court **will dismiss this action without prejudice** pursuant to Rule 4(m) of the Federal Rules of Civil Procedure and proceed to enter final judgment as to the remaining Defendants. Plaintiff is

strongly admonished to read and adhere to Rule 11 of the Federal Rules of Civil Procedure to avoid the possible imposition of sanctions. If there is a violation of Rule 11, the court will impose appropriate sanctions.

## V. Conclusion

For the reasons herein stated, Plaintiff has failed to state a claim upon which relief can be granted against any Defendant. Accordingly the court **grants** Defendants City of Huntsville and John Gaines' Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6); **grants** Defendants Barbara Hale, David P. Weeks, and Walker County's Rule 12(b)(6) Motion to Dismiss; and **denies as moot** Defendants Barbara Hale, David P. Weeks, and Walker County's Rule 12(b)(3) Motion to



Dismiss. The court **dismisses with prejudice** all claims against Judge Gaines, DA Weeks and Judge Hale in their individual and official capacities. The court also **dismisses with prejudice** all claims against Defendants City of Huntsville and Walker County.

**It is so ordered** this 30th day of September, 2008.

*/s/ Sam A. Lindsay*
Sam A. Lindsay
United States District Judge

**2008 Oct. 31—[27] Order**

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

| | | |
|---|---|---|
| **HARMON LUTHER TAYLOR, an American national and a Texas national,** Plaintiff, | § | |
| v. | § | Civil Action No. |
| | § | **3:07-CV-1634-L** |
| **BARBARA HALE and BARBARA HALE, individually and as Judge, County Court at law, et al.,** Defendants. | § | |

**ORDER**

On September 30, 2008, the court directed Plaintiff Harmon Luther Taylor ("Plaintiff") to effect service on the State of Texas by October 31, 2008, or inform the court in writing whether he intended to proceed against the State. Mem. Op. and Order 14. The court also informed Plaintiff that it would dismiss the action without prejudice as to the State and proceed to enter final judgment as to the remaining Defendants. *Id.* As of the close of business on October 31, 2008, Plaintiff has neither effected service on the State nor informed the court in writing whether he intends to proceed against the State. Accordingly, the court **dismisses without**

**prejudice** this action against the State of Texas for Plaintiffs failure to comply with the court's order and Rule 4(m) of the Federal Rules of Civil Procedure.

In its Memorandum Opinion and Order, the court dismissed all of Plaintiffs claims with prejudice against all Defendants, except the State. The court **modifies** its opinion and order to reflect

USCA5 425 [⊥ 2]

that Plaintiffs state malicious prosecution claim is *dismissed with prejudice until such time that Plaintiff can show that the state court criminal proceedings have terminated in his favor.*

**It is so ordered** this 31st day of October, 2008.

*/s/ Sam A. Lindsay*
Sam A. Lindsay
United States District Judge

USCA5 426

**2008 Oct. 31—[28] Judgment**

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

| | | |
|---|---|---|
| **HARMON LUTHER TAYLOR, an American national and a Texas national,** Plaintiff, | § | |
| v. | § | Civil Action No. |
| | § | **3:07-CV-1634-L** |
| **BARBARA HALE and BARBARA HALE, individually and as Judge, County Court at law, et al.,** Defendants. | § | |

**JUDGMENT**

The court issues this judgment pursuant to its Memorandum Opinion and Order, filed September 30, 2008, and its Order of October 31, 2008. It is therefore **ordered, adjudged** and **decreed** that Plaintiff Harmon Luther Taylor ("Plaintiff") take nothing against Defendants Barbara Hale, David P. Weeks, John Gaines (either in their individual or official capacities), Walker County and City of Huntsville; that all claims against these Defendants are dismissed with prejudice, except that Plaintiffs state malicious prosecution claim is dismissed with prejudice until such time that Plaintiff can show that the state court criminal proceedings have terminated

in his favor; that this

USCA5 427 [⊥ 2]

action against Defendant State of Texas is dismissed without prejudice; that all relief requested by Plaintiff is denied; and that all allowable and reasonable costs are taxed against Plaintiff.

**Signed** this 31st day of October, 2008.

*/s/ Sam A. Lindsay*
Sam A. Lindsay
United States District Judge

USCA5 428

**2009 May 1—[30] Order**

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

| | | |
|---|---|---|
| **HARMON LUTHER TAYLOR, an American national and a Texas national,** Plaintiff, | § | |
| v. | § | Civil Action No. |
| | § | **3:07-CV-1634-L** |
| **BARBARA HALE and BARBARA HALE, individually and as Judge, County Court at law, et al.,** Defendants. | § | |

**ORDER**

Before the court is Plaintiff Harmon Luther Taylor's Motion to Vacate, filed November 6, 2008. Defendants filed no response to the motion. After careful consideration of the motion, the court **grants** in part and **denies** in part Taylor's Motion to Vacate.

Taylor seeks to vacate the court's order of October 31, 2008, and its judgment, also dated October 31, 2008. The court did not issue an order in this case on September 30, 2008, but it did issue a "Memorandum Opinion and Order" on this date, and this is one of the documents to which Taylor refers. Taylor states that he received the order and judgment issued on

October 31, 2008, but "has yet to receive the alleged [memorandum opinion and] order of 30 September." Taylor's Mot. to Vacate 2.

The memorandum opinion and order dismissed all claims against all Defendants, except the State of Texas. In this opinion and order, the court directed Plaintiff to effect service on the State of Texas by October 31, 2008, and informed Taylor that it would dismiss this action against the State of Texas, pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, if he failed to effect service



against the State of Texas or show good cause for failure to effect service. When the docket sheet did not reflect that service had been effected, and Taylor filed no requests for an extension or made any other filing, the court dismissed this action against the State of Texas pursuant to Rule 4(m) on October 31, 2008, and issued judgment as to all Defendants, including the State of Texas.

The court accepts Taylor's statement as true that he did not receive the court's memorandum and opinion order of September 30, 2008. Plaintiff had been fully heard with respect to all Defendants, except the State of Texas and the court declines to alter or amend its judgment as to such Defendants because Taylor has set forth no factual or legal basis in his motion to convince the court that it should alter or amend its order and judgment. The court, however, will amend its order and judgment of October 31, 2008, to allow Plaintiff **thirty days** from the date of this order to effect service on the State of Texas or to show good cause why service cannot be

effected by this date. The court therefore **amends** and **vacates** its order and judgment of October 31, 2008, to the extent that the State of Texas is dismissed without prejudice. In all other respects the order and judgment issued October 31, 2008, remain unchanged and in effect. Failure of Plaintiff to comply with this court order will result in dismissal of this action against the State of Texas pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

**It is so ordered** this 1st day of May, 2009.

*/s/ Sam A. Lindsay*
Sam A. Lindsay
United States District Judge

USCA5 436

**Rule 14.1(i)(iii)—Rehearing, or other extension**

**None.**

**Rule 14.1(i)(iv)—Judgment of different date**

**None.**

**Rule 14.1(i)(v)—Statutes and Rules**

**Texas Transportation Code**

**Sec. 521.021. LICENSE REQUIRED.**

A person, other than a person expressly exempted under this chapter, may not **operate** a motor vehicle on a highway in **this state** unless the person holds a driver's license issued under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

**Sec. 502.001. DEFINITIONS.**

In this chapter:

(13) "Motor vehicle" means a vehicle that is self-propelled.

(24) "Vehicle" means a device in or by which a person or property is or may be transported or drawn

on a public highway, other than a device used exclusively on stationary rails or tracks.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 625, Sec. 1, eff. Sept. 1, 1997.
Amended by: Acts 2005, 79th Leg., Ch. 586, Sec. 2, eff. September 1, 2005. Acts 2007, 80th Leg., R.S., Ch. 1280, Sec. 1, eff. June 15, 2007.

**Sec. 522.003. DEFINITIONS.**

In this chapter:

(11) "Drive" means to operate or be in physical control of a motor vehicle.

(21) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway. The term does not include a vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 991, Sec. 6, eff. June 1, 2005; Acts 2003, 78th Leg., ch. 1325, Sec. 8.01, eff. June 1, 2005; Acts 2005, 79th Leg., ch. 247, Sec. 2, eff. Sept. 1, 2005.

**Sec. 541.001. PERSONS.**

In this subtitle:

(1) "Operator" means, as used in reference to a vehicle, a person who drives or has physical control of a vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.103, eff. Sept. 1, 1997.

**Sec. 541.201. VEHICLES.**

In this subtitle:

(11) "Motor vehicle" means a self-propelled vehicle or a vehicle that is propelled by electric power from overhead trolley wires. The term does not include an electric bicycle or an electric personal assistive mobility device, as defined by Section 551.201.

(23) "Vehicle" means a device that can be used to transport or draw persons or property on a highway. The term does not include:

(A) a device exclusively used on stationary rails or tracks; or

(B) manufactured housing as that term is defined by Chapter 1201, Occupations Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts, 75th Leg., ch. 1020, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1438, Sec. 8, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch.

663, Sec. 1, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 797, Sec. 3, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1085, Sec. 5, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1318, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.833, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 558, Sec. 3, eff. Sept. 1, 2005.

---

**Texas Criminal Procedure Code**

**Art. 27.14. Plea of Guilty or Nolo Contendere in Misdemeanor.**

(d) If written notice of an offense for which maximum possible punishment is by fine only [or of a violation relating to the manner, time, and place of parking] [element irrelevant] has been prepared, delivered, and filed with the court and a legible duplicate copy has been given to the defendant, **the written notice serves as a complaint to which the defendant *may*** plead "guilty," "not guilty," or "nolo contendere." ***If*** the defendant pleads "not guilty" to the offense, a complaint shall be filed that conforms to the requirements of Chapter 45 of this code, and that complaint serves as an original complaint. A defendant ***may*** waive the filing of a sworn complaint and elect that the prosecution proceed on the written notice of the charged offense ***if the defendant agrees in writing with the prosecution, signs the agreement, and files it with the court.***

TEX. CRIM. PROC. CODE ANN. art. 27.14(d) (West Supp. 2006) ("Art. 27.14(d)") (emphasis added).

**Art. 44.17. Appeal to County Court, How Conducted.**

In all appeals to a county court from justice courts and municipal courts other than municipal courts of record, the trial shall be de novo in the trial in the county court, **the same as if the prosecution had been originally commenced in that court**. ...

Art. 44.17 (emphasis added).

**Art. 44.181. Defects in Complaint.**

(a) A court conducting a trial de novo based on an appeal from a justice or municipal court may dismiss the case because of a defect in the complaint only if the defendant objected to the defect before the trial began in the justice or municipal court.

(b) The attorney representing the state may move to amend a defective complaint before the trial de novo begins.

Art. 44.181.

**Art. 45.018. Complaint [Municipal Court]**

(a) For purposes of this chapter, a ***complaint*** is a sworn allegation charging the accused with the commission of an offense.

(b) ***A defendant is entitled to notice of a complaint against the defendant not later than the day before the date of any proceeding*** in the prosecution of the defendant under the ***complaint***. The defendant may waive the right to notice granted by this subsection.

Art. 45.018 (emphasis added).

**Art. 45.019. Requisites Of Complaint [Municipal Court]**

(a) *A* ***complaint*** *is sufficient,* ***without regard to its form***, if it substantially satisfies the following requisites:

(1) it must be in writing;

(2) it must commence "In the name and by the authority of the State of Texas";

(3) it must state the name of the accused, if known, or if unknown, must include a reasonably definite description of the accused;

(4) it must show that the accused has committed an offense against the law of this state, or state that the affiant has good reason to believe and does believe that the accused has committed an offense against the law of this state;

(5) it must state the date the offense was committed as definitely as the affiant is able to provide;

(6) it must bear the signature or mark of the affiant; and

(7) it must conclude with the words "Against the peace and dignity of the State" and, if the offense charged is an offense only under a municipal ordinance, it may also conclude with the words "Contrary to the said ordinance".

(b) ... [justice court]

(c) A complaint filed in municipal court must allege that the offense was committed in the territorial limits of the municipality in which the complaint is made.

(d) A complaint may be sworn to before any officer authorized to administer oaths.

(e) A complaint in municipal court may be sworn to before:

(1) the municipal judge;

(2) the clerk of the court or a deputy clerk;

(3) the city secretary; or

(4) the city attorney or a deputy city attorney.

(f) If the defendant does not object to ***a defect, error, or irregularity of form or substance*** in a charging instrument before the date on which the trial on the merits commences, the defendant waives and forfeits the right to object to the defect, error, or irregularity. Nothing in this article prohibits a trial court from requiring that an objection to a charging instrument be made at an earlier time.

Art 45.019 (emphasis added).

**Art. 45.0215. Plea by Minor and Appearance of Parent**

(a) If a defendant is younger than 17 years of age and has not had the disabilities of minority removed, the judge or justice:

(1) must take the defendant's plea in open court; and

(2) shall issue a summons to compel the defendant's parent, guardian, or managing conservator to be present during:

(A) the taking of the defendant's plea; ***and***

(B) ***all <u>other</u> proceedings*** relating to the case.

Art. 45.0215 (emphasis added).

**Art. 45.042. Appeal.**

(a) Appeals from a justice or municipal court, including appeals from final judgments in bond forfeiture proceedings, shall be heard by the county court except in cases where the county court has no jurisdiction, in which counties such appeals shall be heard by the proper court.

(b) Unless the appeal is taken from a municipal court of record and the appeal is based on error reflected in the record, the trial shall be de novo. Art. 45.042.

**Threshold Jurisdictional Issues—Municipal Court**

**Sec. 29.002. Creation.**

A municipal court is created in each municipality. A reference in state law to a "corporation court" means a "municipal court."

TEX GOV'T CODE ANN. § 29.003 (West 2004).

**Sec. 29.003. Jurisdiction.**

(a) A municipal court, including a municipal court of record, shall have exclusive original jurisdiction within the municipality's territorial limits and property owned by the municipality located in the municipality's extraterritorial jurisdiction in all ***criminal*** cases that:

(1) arise under:

(A) the ordinances of the municipality; or

(B) a resolution, rule, or order of a joint board operating an airport under Section 22.074, Transportation Code; and

(2) are punishable by a fine not to exceed:

(A) $2,000 in all cases arising under municipal ordinances or resolutions, rules, or orders of a joint board that govern fire safety, zoning, or public health and sanitation, including dumping of refuse; or

(B) $500 in all other cases arising under a municipal ordinance or a resolution, rule, or order of a joint board.

(b) The municipal court has concurrent jurisdiction with the justice court of a precinct in which the municipality is located in all ***criminal*** cases arising under state law that arise within the municipality's territorial limits or property owned by the municipality located in the municipality's extraterritorial jurisdiction and that:

(1) are punishable only by a fine, as defined in Subsection (c); or

(2) arise under Chapter 106, Alcoholic Beverage Code, and do not include confinement as an authorized sanction.

(c) In this section, an offense which is punishable by "fine only" is defined as an offense that is punishable by fine and such sanctions, if any, as authorized by statute not consisting of confinement in jail or imprisonment.

(d) The fact that a conviction in a municipal court has as a consequence the imposition of a penalty or sanction by an agency or entity other than the court, such as a denial, suspension, or revocation of a privilege, does not affect the original jurisdiction of the municipal court.

(e) The municipal court has jurisdiction in the forfeiture and final judgment of all bail bonds and personal bonds taken in criminal cases of which the court has jurisdiction.

(f) This section does not affect the powers given exclusively to a joint board operating an airport under Section 22.074(d), Transportation Code.

GOV'T CODE § 29.003 (West 2004).

**Section 1.01. Corporate Name.**

All the inhabitants of the City of Huntsville, in Walker County, Texas, as the boundaries and limits of said City are now established or as hereafter established in the manner provided by this charter, shall be a body politic, incorporated under and to be known by the name and style of the "City of Huntsville," with such powers, rights and duties as are herein provided.

Muni. Code, City of Huntsville, art. I, § 1.01 (May, 2004).

**Section 10.01. Municipal Court.**

There shall be a Department of Justice known as the Municipal Court of the City of Huntsville, which Court shall be deemed always open for the trial of causes, and with such jurisdiction, powers and duties as are given and prescribed by the laws of the State of Texas.

**Section 10.02. Judge of the Municipal Court.**

The Municipal Court shall be presided over by a magistrate who shall be known as the Judge of the Municipal Court. The Council, upon recommendation of the Mayor, shall appoint such Judge, who shall be

an attorney at law.

In the event the Judge of the Municipal Court is temporarily unable to act for any reason, a qualified person shall be appointed to act in the Judge's place. The Council shall have the power to appoint on recommendation of the Mayor more than one Judge of the Municipal Court, each of whom shall be a magistrate.

**Section 10.03. Clerk of the Municipal Court.**

There may be a Clerk of the Municipal Court who shall be appointed by the City Manager. Such Clerk shall have the power to administer oaths and affidavits, make certificates, affix the seal of the Court thereto, and otherwise perform any and all acts necessary in issuing process of such Court and conducting the business thereof.

There may be such Deputy Clerks of the Municipal Court as may be authorized by the Council and appointed by the City Manager, which Deputy Clerks shall have authority to act for and on behalf of the Clerk of the Municipal Court.

Any Clerk and Deputy Clerk of the Municipal Court shall be responsible to the City Manager and shall be subject to the City Manager's direction and control.

**Section 10.04. Process and Procedure in the Corporation Court.**

The style of all writs issued out of the Municipal Court shall be in the name of the City of Huntsville.

All jurors shall be residents of said City and otherwise possess the same qualifications as jurors in the State courts, and they shall be summoned in the same manner as provided for in Justice Court.

**Section 10.05. Court Separate from all Departments.**

The Municipal Court of the City shall always be separate and apart from all departments of the City.

Muni. Code, City of Huntsville, art. X, §§ 10.01 to 10.05 (May, 2004).

**Section 2.01.02 Rules of construction.**

In the construction of this Code and of all ordinances, the following rules shall be observed, unless the context clearly indicates otherwise:

County. The words "the county" or "this county" shall mean the County of Walker, State of Texas.

Court, corporation court, city court, municipal court. Whenever the words "court," "corporation court," "city court" or "municipal court" are used herein, they shall mean the municipal court of Huntsville, Texas.

Muni. Code, City of Huntsville, § 2.01.02 (May, 2004).

**County Court**

**Art. 4.08. Appellate Jurisdiction of County Courts.**

The county courts shall have appellate jurisdiction in criminal cases of which justice courts and other inferior courts have original jurisdiction.

TEX. CRIM. PROC. CODE. art. 4.08.

**Section 25.2382. Walker County Court at Law Provisions.**

(a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Walker County has concurrent jurisdiction with the district court ...

(k) All cases appealed from the justice courts and other courts of inferior jurisdiction in the county shall be made direct to a county court at law, unless otherwise provided by law.

GOV'T CODE § 25.2382(a), (k).

---

**ND TX Local Rules**

**"Consent to Proceed" form**

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE NORTHERN DISTRICT OF TEXAS**

**_____ DIVISION**

_____
Plaintiff

v. Docket No. _____

_____
Defendant

**CONSENT TO PROCEED BEFORE A UNITED STATES MAGISTRATE JUDGE**

In accordance with the provisions of 28 U.S.C. § 636(c), the parties to the above captioned civil matter hereby waive their right to proceed before a Judge of the United States District Court and consent to have a United States Magistrate Judge conduct any and all further proceedings in the above styled case (including the trial) and order entry of a final judgment.

Party or Counsel of Record Date

NOTE: Return this form to the District Clerk only if it has been executed by all parties to the case.

**ORDER OF REASSIGNMENT**

IT IS HEREBY ORDERED that the above captioned matter be reassigned to the United States Magistrate Judge _____ for the conduct of all further proceedings and the entry of judgment in accordance with 28 U.S.C. § 636(c) and the foregoing consent of the parties.

DATED: _____

_____
UNITED STATES DISTRICT JUDGE

## TRIALS BY THE UNITED STATES MAGISTRATE JUDGE

28 U.S.C. § 636(c)(1), Fed. R. Civ Proc 73(b) provide that upon the consent of all parties in a civil case, the district judge may enter an order reassigning the civil case to a magistrate judge. Miscellaneous Order #6 of the Northern District of Texas provides that it is the plaintiff's obligation to attach a copy of this notice to the complaint and summons, when served.

## NOTICE OF RIGHT TO CONSENT TO PROCEED BEFORE A UNITED STATES MAGISTRATE JUDGE

You have the opportunity to consent to the exercise of civil jurisdiction over your case by a magistrate judge. If all parties involved in your case consent, the presiding district judge may enter an order of transfer, and reassign your case to a magistrate judge.

Your decision to consent, or not to consent, to the reassignment of your case to a magistrate judge is entirely voluntary and without any adverse consequences if you choose not to consent. Your decision should be communicated to the clerk of the district court using the form entitled: *Consent to Proceed Before a United States Magistrate Judge* ("consent form"). It is preferred that all parties submit the consent form jointly, but it may be submitted individually if necessary. A district judge or magistrate judge will not be informed of any party's response to this notice unless all parties have consented to the referral of the matter to a magistrate judge.

Even if all parties consent to the exercise of civil jurisdiction by a magistrate judge, the district judge may choose not to enter an order reassigning the case to a magistrate judge. However, if the district judge does enter an order of transfer, and reassigns your case to the magistrate judge, the magistrate judge is then authorized to conduct any or all proceedings in the case, including a jury or non-jury trial, and order the entry of a final judgment. Upon entry of judgment by the magistrate judge in any case referred under 28 U.S.C. § 636(c)(1), 28 U.S.C. § 636(c)(3) provides that "an aggrieved party may appeal directly to the appropriate United States court of appeals from the judgment of the magistrate judge in the same manner as an appeal from any other judgment of a district court."

If you wish to consent to proceed before a United States magistrate judge and are a registered electronic filer in the Northern District of Texas, you may access an electronic version of the consent form via the court's CM/ECF system under Civil Events, Other Filings. Detailed instructions on how to complete the electronic version of the consent form are provided in the ECF User Guide located on the court's website at www.txnd.uscourts.gov, Filing / ECF Info. Completing the electronic version of the consent form will electronically submit the form.

The consent form may also be obtained in paper form from any of the clerk's seven divisional offices.

---

**ND TX R. 16.2**

LR 16.2 Authority of Magistrate Judges as to Scheduling Orders

Unless the presiding judge otherwise directs, a magistrate judge shall have the authority under Fed. R. Civ. P. 16(b) to enter and modify scheduling orders.

---

**Special Order 3-251 (2006 Mar. 8)**

**IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS**

---

**SPECIAL ORDER NO. 3-251**

The Clerk's Office is directed to automatically refer [sic] at case opening certain types of matters to the resident magistrate judge for decisions as to non-dispositive matters and for findings and recommendations as to dispositive matters. In a division having more than one magistrate judge, the Clerk's Office will automatically refer each such matter to the magistrate judge to whom the case is preliminarily assigned.

The chart attached to this Order specifies each district judge's referral directive to the Clerk's Office. A district judge may modify the directive as it relates

to that judge by notifying the Clerk's Office in writing. The Clerk's Office will modify the chart as necessary to reflect any such modification.

SO ORDERED this 8 day of *March*, 2006.

*/s/ A. Joe Fish*
A. JOE FISH, CHIEF JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

[N.B. The attached charts, of the various dates, including 22 Sep 2006, 18 Jan 2007, 26 Feb 2007, 30 Nov 2007, and 9 Jan 2009, apply the concept above that a case may be "referred" (1) by the clerk, (2) upon filing of the case, (3) without any other fact-finding or order by the assigned judge, etc. *HLT*]

---

**Miscellaneous Order No. 6.**

1982 Feb. 5.

U.S. DISTRICT COURT [1]
NORTHERN DISTRICT OF TEXAS
**FILED**

MAR – ?? 1982

CLERK, U.S. DISTRICT COURT
BY: */s/ Pat Spears*
Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

MISCELLANEOUS ORDER NO. 6

ORDER FOR THE ADOPTION OF RULES FOR THE EXERCISE OF POWERS AND PERFORMANCE OF DUTIES BY UNITED STATES MAGISTRATES [⊥ 2]

Rule 1

Powers and Duties of Magistrates under 28 U.S.C. §636(a)

All United States magistrates serving within the territorial jurisdiction of the Northern District of Texas shall have the power and duty to:

[1] [N.B. The only things legible in the file stamp are "MAR," "1982," and "*Pat Spears*." Everything else is presumed. *HLT*]

(a) Process criminal complaints and issue appropriate warrants or summons.

(b) Issue search warrants.

(c) Conduct initial appearances.

(d) Impose conditions of release and admit persons to bail.

(e) Impose conditions of bail for material witnesses.

(f) Conduct preliminary hearings.

(g) Conduct removal hearings and issue warrants of removal.

(h) Administer oaths and affirmations; take acknowledgments, affidavits and depositions.

(i) Conduct preliminary hearings, by whatever name called, in proceedings for the revocation of parole, mandatory release or probation.

(j) Issue administrative inspection warrants.

(k) Hold to security of the peace and for good behavior under 18 U.S.C. §3043.

(l) Discharge indigent prisoners or persons imprisoned for debt under process or execution issued by a federal court, pursuant to 18 U.S.C. §3569 and 28 U.S.C. §2007.

(m) Institute proceedings against persons violating certain Civil Rights Statutes under 42 U.S.C. §1987 and 1989.

(n) Settle and certify the non-payment of seaman's wages and conduct proceedings for the disposition of deceased seaman's effects

under 42 U.S.C. §603, 604, 627, 628.

(o) Enforce awards of foreign consul and arbitrate differences between captains and crews of vessels of the consul's nations under 22 U.S.C. §258a.

(p) Upon the consent of the defendant, conduct trial of persons accused of, and sentence persons convicted of misdemeanor offenses, including petty offenses (a misdemeanor, the penalty for which does not exceed imprisonment for a period of six months or a fine of not more than $500.00, or both) pursuant to 18 U.S.C. §3401. Upon the filing with the clerk of an indictment, information or complaint charging a misdemeanor other than a petty offense such indictment or information shall be referred to a United States District Judge who may in turn refer such non-petty misdemeanor charge to a United States magistrate for trial and disposition. Any citation or violation notice charging a petty offense upon which the accused requests a trial, and any citation or violation notice charging a petty offense to which the accused fails to respond within a reasonable time shall be referred to a United States magistrate for trial and disposition.

(1) If the defendant consents to disposition of the case by the magistrate specifically waiving trial before a judge of the district court, the magistrate shall proceed as provided in Rule 2(c), Rules of Procedure for the Trial of Misdemeanors Before

United States Magistrates. If the defendant [⊥ 3] does not consent to disposition of the case by the magistrate, the magistrate shall:

(a) If the defendant is charged with a petty offense for which no sentence of imprisonment will be imposed, order the defendant to appear before a judge of the district court for further proceedings on notice.

(b) In all other cases, proceed in accordance with the provisions of Rule 5(c), Federal Rules of Criminal Procedure.

(2) All misdemeanor cases, except petty offenses, transferred to the Northern District of Texas under the provisions of Rule 20, Federal Rules of Criminal Procedure shall be referred to a United States District Judge who may in turn refer such matter to a United States magistrate for plea and sentence as provided for in Rule 1(p), supra.

(3) Appeals. An appeal from a judgment and conviction or from a decision or order of a magistrate shall be taken in the manner within the time provided in Rule 7(b), Rules of Procedure for the Trial of Misdemeanors Before United States Magistrates. If a transcript of the proceedings before the magistrate is desired, the parties shall designate those portions of the proceedings to be transcribed, as provided in Rule 10(b),

Federal Rules of Appellate Procedure. When the transcript has been certified by the magistrate he shall forward it to the clerk's office for filing and shall at the same time notify the judge and the parties of the filing of the transcript. Within fifteen days of the date on which the transcript is [⊥ 4] filed in the clerk's office, or if there is to be no transcript, within fifteen days of the filing of the notice of appeal with the magistrate, the appellant shall serve and file a brief which shall enumerate each reversible error claimed to have occurred in the proceedings before the magistrate. Within fifteen days of service of appellant's brief the appellee shall serve and file a brief. The appellant may serve and file a reply brief within seven days of service of appellee's brief. Copies of all briefs shall be submitted to the judge at the time of filing. The judge to whom the appeal is assigned may hear oral argument or may decide the appeal on the briefs. Any party desiring oral argument shall so specify in his brief, but oral argument shall be discretionary with the judge, notwithstanding request therefor by one or more of the parties.

(q) Exercise all other powers and perform all other duties conferred or imposed upon United States magistrates or United States commissioners by law or by the Federal Rules of Criminal Procedure. [⊥ 5]

## Rule 2

Additional Powers and Duties of Magistrates under 28 U.S.C. §636(b)

Upon entry of an order of reference by a District Judge, or when required to do so under the provisions of a local rule or general order of this Court, a magistrate may perform any of the following additional duties, and shall have all powers necessary to perform such duties. Provided, however, that no part time magistrate specially designated to perform such additional duties, nor any partner or associate of such part time magistrate, shall appear as counsel in any case before this Court when to do so would constitute a violation of the Conflict of Interest Rules for Part Time Magistrates promulgated by the Director of the Administrative Office of the United States Courts [§1.3(b)(i)-(viii), Regulations of the Director of the Administrative Office of the United States Courts Governing the Administration of the United States Magistrates System].

(a) Criminal Proceedings.

(1) General supervision of the criminal calendar, including calendar calls and motions to expedite or postpone the trial of the case.

(2) Conduct of post indictment and post information arraignments, acceptance of not guilty pleas, and the ordering of a presentence report on a defendant who signifies the desire to plead guilty.

(3) Conduct of pretrial conferences, omnibus

hearings, and related proceedings.

(4) Hearing and deciding motions by the Government to dismiss an indictment or information without prejudice to further proceedings, and any other [⊥ 6] motion or pretrial matter which is not specifically enumerated as an exception in 28 U.S.C. §636(b)(1)(A).

(5) The review of motions to dismiss or quash an indictment or information made by a defendant and motions to suppress evidence, including the conduct of all necessary evidentiary and other hearings or oral argument thereon, and the submission of reports and recommendations to the district judge assigned to the case.

(6) Conduct of probation revocation hearings and submission of a report and recommendations to the district judge to whom the case is assigned.

(7) Receipt of grand jury returns, in accordance with Rule 6(f), Federal Rules of Criminal procedure.

(8) Conduct hearings and issue orders upon motions arising out of grand jury proceedings including, but not limited to, enforcement or modification of subpoenas, lineups, finger and palmprinting, voice identification, medical examination and the taking of blood, urine, fingernail, hair and body secretion samples with appropriate medical safeguards.

(9) Accept waivers of indictments and permit amendments of informations.

(10) Establish a bail schedule for petty offenses as defined in 18 U.S.C. §1(3) providing for the posting of collateral, waiver of appearance before the court and consent to forfeiture of collateral. [⊥ 7]

(11) Conduct extradition proceedings under 18 U.S.C. §3184.

(b) Prisoner Petitions.

(1) Review of petitions of state prisoners seeking post conviction relief from state custody under 28 U.S.C. §2254 and other petitions of state prisoners seeking to attack the fact or duration of their state confinement, the issuance of orders to show cause and other necessary orders or writs to obtain a complete record, the conduct of evidentiary and other bearings and oral arguments, performing all other duties authorized to be formed by a magistrate under the Rules Governing §2254 Cases, and the preparation and submission to the district judge to whom the case is assigned of a report and recommendations as to the appropriate disposition of the petition.

(2) Review of motions of federal prisoners for vacation of sentence under 28 U.S.C. §2255, and review of other petitions of federal prisoners for relief from custody, the issuance of orders to answer the

motion or petition and other orders necessary to the magistrate's review of such motion or petition, the conduct of evidentiary and other hearings and oral arguments, performing all other duties authorized to be performed by a magistrate under the Rules Governing §2255 Cases, and the preparation of a report and recommendations to the district judge to whom the case is assigned as to the appropriate disposition of the motion or petition. [⊥ 8]

(3) The review of civil suits by prisoners for deprivation of civil rights arising out of conditions of confinement under 42 U.S.C. §1983 and related statutes; the conduct of evidentiary and other hearings and oral arguments and the preparation of reports and recommendations to the district judge to whom the case is assigned.

(4) Taking on-site depositions, gathering evidence, conducting pretrial conferences, and serving as a mediator at the holding facility in connection with civil rights suits filed by prisoners contesting conditions of confinement under 42 U.S.C. §1983 and related statutes.

(5) Conduct of periodic reviews of proceedings to insure compliance with previous orders of the Court regarding conditions of confinement.

(6) Review of prisoner correspondence.

(c) Civil Proceedings.

(1) General supervision of the civil calendar, including the handling of calendar calls and motions to expedite or postpone the trial of cases.

(2) Conduct of preliminary and final pretrial conferences, status calls and settlement conferences, and the formulation or preparation of pretrial orders.

(3) Hearing and determining pretrial procedural and discovery motions and any other motion or pretrial matter which is not specifically enumerated as an exception in 28 U.S.C. §636(b)(1)(A).

(4) The review of motions:

(A) for injunctive relief,

(B) to dismiss for failure to state a claim upon which relief may be granted, [⊥ 9]

(C) to involuntarily dismiss [sic] an action,

(D) to vacate or set aside default judgments,

(E) to dismiss or permit the maintenance of a class action,

(F) for judgment on the pleadings, or

(G) for summary judgment

including the conduct of all necessary evidentiary and other hearings or oral arguments thereon, and the submission of reports and recommendations to the District Judge assigned to the case.

(5) Acceptance of petit jury returns in the absence or disability of the trial judge.

(6) Examining judgment debtors under Rule 69, Federal Rules of Civil Procedure.

(7) Conduct proceedings for the enforcement of civil penalties under the Federal Boat Safety Act, 46 U.S.C. §1451-1489.

(8) Issuance of orders prior to ratification of sale in mortgage foreclosure proceedings on properties financed through government loans.

(9) Review of default judgments and conduct of inquests on damages in cases involving default judgments.

(10) Appoint persons to serve process pursuant to Rule 4(C), Federal Rules of Civil Procedure, except that, as to in rem process, such appointments shall be made only when the United States Marshal, or his deputies, are not immediately available to execute such process, and the individual appointed has been approved by the United States Marshal for such purpose. [⊥ 10]

(d) Special Master References.

(1) Serving as a special master in accordance with Rule 53, Federal Rules of Civil Procedure: hearing testimony and submitting a report and findings on complicated issues in jury cases or in matters of account, difficult computation

of damages and exceptional conditions in nonjury cases.

(2) Conducting hearings and resolving specific issues in patent, antitrust, and other complex cases where there are a great many issues, claims and documents, or in multiple disaster and class action cases where there are numerous claimants and diverse claims.

(3) Serving as a special master in any matter with the consent of the parties.

(4) Serving as a commissioner to determine compensation and assess damages in land condemnation cases under Rule 71A(h), Federal Rules of Civil Procedure.

(5) Conducting evidentiary hearings and preparing findings in employment discrimination cases under Title VII of the Civil Rights Act of 1964 whenever a judge has not scheduled a case for trial within 120 days after issue has been joined and upon reference to the magistrate by a District Judge.

(e) Administrative Proceedings.

(1) Reviewing the record of administrative proceedings in suits for judicial review of final decisions of administrative agencies and submitting to the district judge to whom the ease is assigned a report and recommendations as to (a) whether there are any defects in the agency proceedings which [⊥ 11] rise to the level of a

deprivation of due process or a violation of a statute or regulation, (b) whether there should be a remand to the agency for additional factual determinations to complete the record, and (c) whether there is substantial evidence in the record to support the ultimate decision of the agency.

(f) Miscellaneous Duties.

(1) The review of petitions in civil commitment proceedings under Title III of the Narcotic Addict Rehabilitation Act.

(2) Issuance of subpoenas and writs of habeas corpus ad testificandum and ad prosequendum or other orders necessary to obtain the presence of parties or witnesses or evidence needed for court proceedings in civil and criminal cases.

(3) Coordination of the Court's efforts in the promulgation of local rules and procedures and the administration of the forfeiture of collateral systems, as well as in similar or related matters.

(4) Supervision of proceedings on requests for letters rogatory in civil and criminal cases.

(5) Conduct of voir dire and selection of juries for district judges in civil and criminal cases with consent of the parties and the District Judge.

(6) Exoneration or forfeiture of bonds and bail.

(7) Service as a member of the district's Speedy Trial Act Planning Group, (including service as the reporter).

(8) Administer the Court's Criminal Justice Act Plan, including maintenance of a list of eligible attorneys, appoint attorneys and approve vouchers [⊥ 12] for compensation and expenses.

(9) Any other duties assigned by the Court, or any Judge thereof, which are not inconsistent with the Constitution and laws of the United States. [⊥ 13]

Rule 3

Conduct of trials and Disposition of Civil Cases Upon Consent of the Parties, 28 U.S.C. §636(c)

Upon the consent of the parties and the approval and referral of the district judge to whom the ease is assigned a full-time magistrate or a part-time magistrate who serves as a full-time judicial officer may conduct any or all proceedings in any civil case which is filed in this court, including the conduct of a jury or nonjury trial, and may order the entry of a final judgment, in accordance with 28 U.S.C. §636(c). In the course of conducting such proceedings a magistrate may hear and determine any and all pretrial and posttrial motions which are filed by the parties, including case-dispositive motions.

(a) In general

In the course of conducting proceedings in accordance with 28 U.S.C. §636(c) a

magistrate shall conform to all applicable provisions of federal statutes and rules, and to the general procedural rules of this court.

(b) Special provisions for the disposition of cases

(1) Notice.

The clerk of court shall notify the parties in all civil cases that they may consent to have a magistrate conduct any or all proceedings in the case and order the entry of a final judgment. Such notice shall be given on the form attached hereto as Exhibit 1 and shall be handed or mailed to the plaintiff or his representative at the time an action is filed and to other parties as attachments to copies of the complaint and summons, when served. The clerk may [⊥ 14] serve the parties with a consent form, attached as Exhibit 2 in the same manner and contemporaneously with the notice or upon the request of any of the parties. Additional notices may be furnished to the parties at later stages of the proceedings, and may be included with pretrial notices and instructions.

(2) Execution of Consent.

The clerk shall not accept a consent form unless it has been signed by all parties in a case. The plaintiff shall be responsible for securing the execution of a consent form by the parties and for filing such form with the clerk of court. No consent form will be made available, nor will its contents be made known to any judge or magistrate, unless all parties

have consented to the reference to a magistrate. No magistrate, judge or other court official may attempt to persuade or induce any party to consent to the reference of any matter to a magistrate. This rule, however, shall not preclude a judge or magistrate from informing the parties that they may have the option of referring a case to a magistrate.

In the absence of receipt of a consent form executed by all parties within twenty days of the date that all parties have filed answers or have otherwise responded it shall be deemed that consent of all the parties has not been effected, and the cause of action shall proceed before the judge to whom the cause was assigned at the time suit was filed. This provision shall not preclude a judge's exercise of discretion to thereafter transfer the [⊥ 15] case to a magistrate if the judge be advised that all parties have consented to a trial before a magistrate.

The reference of a civil case to the magistrate for trial by a District Judge shall not preclude the judge from thereafter revoking the reference at any time, and in any such case in which the reference is revoked the case will thereafter be reinstated on the referring judge's docket.

(3) Reference.

After the consent form has been executed and filed, the clerk shall transmit it to the judge to whom the case has been assigned for

approval and referral of the case to a magistrate. Once the case has been assigned to a magistrate, the magistrate shall have the authority to conduct any and all proceedings and to direct the clerk of court to enter a final judgment in the same manner as if the judge had presided. [⊥ 16]

## Rule 4

## Review and Appeal

(a) Review of case-dispositive motions and prisoner litigation - 28 U.S.C. §636(b)(1)(B)

(1) In all matters upon which a magistrate is required to submit a report and recommendations to a district judge the magistrate shall prepare his report and recommendations in writing and shall file the same with the clerk. The clerk shall transmit a copy thereof to the judge to whom the action is assigned and to each of the parties, or to their counsel, if represented by counsel. Each party shall have ten days after service of a copy of the magistrate's report and recommendations in which to serve and file written objections to the report or recommendations to the magistrate, unless a greater or shorter time is fixed by the magistrate or judge. All such objections shall be filed with the clerk and served upon the other parties, as in other cases, and copies thereof shall also be forwarded to the judge to whom the action is assigned and to the magistrate. If the judge shall desire a response to the objections, he shall call upon the other party or parties for a response or responses

thereto, and shall fix the time within which such response or responses may be served and filed. All such responses shall be served and filed as required in the case of objections. No objection to a magistrate's report or recommendations shall be sustained unless the other party or parties have been called upon to respond thereto. [⊥ 17]

(2) The district judge shall make a de novo determination of those portions of the magistrate's report and recommendation to which specific objection is made. However, the district judge need not conduct a new hearing on the issues raised by the objections, but may base his determination upon the record made before the magistrate and may consider the magistrate's report and recommendations. The district judge may also receive further evidence, conduct further hearings, or remand the matter to the magistrate with instructions. After such further proceedings, if any, as the district judge deems appropriate, he may adopt, reject or modify, in whole or in part, the report or recommendations of the magistrate.

(b) Appeal of non-dispositive matters - 28 U.S.C. §636(b)(1)(A)

(1) In any matter which a magistrate is empowered to hear and determine, a party aggrieved by the ruling of the magistrate may appeal the magistrate's ruling to the district judge to whom the action is assigned. Such an appeal may be perfected by serving and filing within ten days of the magistrate's ruling an

application for review of such ruling specifying the grounds upon which the magistrate's ruling is claimed to be erroneous. All such applications for review shall be filed and served upon the other party or parties as in other cases, and copies thereof shall be promptly transmitted to the judge to whom the action is assigned and to the magistrate. The district judge may call upon the other party or parties to respond to the application for review, and no ruling of a [⊥ 18] magistrate shall be reversed, vacated or modified unless the other party or parties shall have been called upon to respond to the application for review.

(2) No ruling of a magistrate in any matter which he is empowered to hear and determine shall be reversed, vacated or modified on appeal unless the district judge shall determine that the findings of the magistrate are clearly erroneous, or that the magistrate's ruling is contrary to law or constitutes an abuse of discretion.

(3) The ruling of a magistrate in a matter which he is empowered to hear and determine is the ruling of the Court and is final unless reversed, vacated or modified by the district judge to whom the action is assigned, as provided in this rule. An appeal to the district judge shall not operate as a stay of a magistrate's ruling unless so ordered by the magistrate or the district judge, and then only to the extent specifically ordered by the magistrate or district judge. Any party desiring a stay of a magistrate's ruling or any part thereof, pending appeal to the district judge shall first apply therefore to the

magistrate from whose ruling the appeal is taken. If the magistrate denies a stay, written application therefor may then be made to the district judge. Any application to the district judge for a stay shall have appended thereto the certificate of counsel that application for the stay sought has been made to the magistrate and denied by him.

(c) Special Master Reports - 28 U.S.C §636(b)(2).

Any party may seek review of, or action on, a special [⊥ 19] master report filed by a magistrate in accordance with the provisions of Rule 53(e) of the Federal Rules of Civil Procedure.

(d) Appeal from Judgments in Civil Cases Disposed of on Consent of the Parties 28 U.S.C. §636(c).

(1) Appeal to the Court of Appeals.

Upon entry of judgment in any civil case disposed of by a magistrate under authority of 28 U.S.C. §636(c) and Rule 3 of these rules, supra, on consent of the parties wherein the parties agreed to appeal any judgment directly to the Fifth Circuit, an aggrieved party shall appeal directly to the United States Court of Appeals for the Fifth Circuit in the same manner as an appeal from any other judgment of this court.

(2) Appeal to the District Judge.

(a) Notice of Appeal

Upon the entry of judgment in any civil case disposed of by a magistrate when authority of 28 U.S.C. §636(c) on

consent of the parties wherein the parties agreed to appeal any judgment to a judge of this court in accordance with 28 U.S.C. §636(c)(4), rather than directly to the Court of Appeals for the Fifth Circuit, an aggrieved party shall file written notice of appeal with the clerk of the court within thirty days after entry of the magistrate's judgment, but if the United States or an officer or agency thereof is a party, the notice of appeal may be filed by any party within sixty [⊥ 20] days of entry of the judgment. Upon a showing of excusable neglect or good cause, the magistrate or a judge of this court may extend the time for filing a notice of appeal upon motion filed not later than thirty days after the expiration of the time prescribed by Rule 4(a), Federal Rules of Appellate Procedure.

In the event a timely motion for new trial is filed pursuant to Rule 59, Federal Rules of Civil Procedure, the time for appeal for all parties shall run from the date of the ruling on the motion.

(b) Service of the Notice of Appeal

The clerk of court shall serve notice of the filing of a notice of appeal by mailing a copy thereof to counsel of record for all parties other than the

appellant, or if a party is not represented by counsel to the party at his last known address.

(c) Record on Appeal

The record on appeal to a judge shall consist of the original papers and exhibits filed with the court and the transcript of the proceedings before the magistrate, if any. Every effort shall be made by the parties, counsel, end the court to minimize the production and costs of transcriptions of the record, and otherwise to render the appeal expeditious and inexpensive, as mandated by 28 U.S.C. §636(c)(4). If a [⊥ 21] transcript of the proceedings is desired the party shall designate those portions of the proceedings to be transcribed in the manner provided in Rule 10(b), Federal Rules Appellate Procedure.

(d) Memoranda

The appellant shall within forty days of the filing of the notice of appeal file a typewritten memorandum with the clerk, together with two additional copies, stating the specific facts, points of law, and authorities on which the appeal is based. The appellant shall also serve a copy of the memorandum on the appellee or appellees. The appellees shall file an answering memorandum within thirty days of the filing of the

appellant's memorandum. The court may extend these time limits upon a showing of good cause made by the party requesting the extension. Such good cause may include reasonable delay in the preparation of any necessary transcript. If an appellant fails to file his memorandum within the time provided by this rule, or any extension thereof, the court may dismiss the appeal.

(e) Disposition of the Appeal by a Judge

The judge shall consider the appeal on the record, in the same manner as if the case had been appealed from a judgment of the district court to the court of appeals and may affirm, reverse, or modify the magistrate's [⊥ 22] judgment, or remand with instructions for further proceedings. The judge shall accept the magistrate's findings of fact unless they are clearly erroneous, and shall give due regard to the opportunity of the magistrate to judge the credibility of the witness.

(f) Appeals from other others of a Magistrate

Appeals from any other decisions and orders of a magistrate not provided for in this rule should be taken as provided by governing statute, rule or decisional law. [⊥ 23]

Rule 5

Priorities in Performance of Magistrate's
Duties and in Assignment of Duties to Magistrates

A magistrate shall give priority to the following types of matters above other matters pending on his docket:

(a) Criminal matters of all types.

(b) Prisoner petitions for relief from custody under 28 U.S.C. §2254 and 2255.

(c) Any matter pending in an action which has been set for trial and in which delay might result in postponement of trial, including but not limited to, pretrial conferences and motions to maintain or dismiss class actions.

(d) Matters pending in actions brought pursuant to Title VII, Civil Rights Act of 1964.

(e) Social Security Reviews.

(f) Prisoner complaints challenging conditions of confinement under 42 U.S.C. §1983 and related statutes.

(b) [(g)?] Any other matter designated as a priority matter by a district judge.

A magistrate shall endeavor to dispose of all priority matters pending before him which are ready for disposition before reaching non-priority matters. References of nonpriority matters to a magistrate shall be the exception, rather than the rule, and all such references shall be consistent with the

magistrate's work load and his resulting ability to give reasonably prompt attention to non-priority matters. [⊥ 24]

Rule 6

Inherent Powers of District Judges

The specification of these rules of powers and duties of magistrates shall not be construed as vesting such powers or conferring such duties exclusively upon magistrates, but the district judges of this district retain their inherent powers to act in any and all such matters. Notwithstanding reference of any of the foregoing matters to a magistrate, a district judge retains the power to act therein if, in the opinion of the district judge, the proceedings will thereby be expedited or the efficient administration of justice advanced.

This rule shall become effective on February 1, 1982, and upon these rules becoming effective the former Miscellaneous Order No. 6 and all amendments thereto shall be and are repealed.

ENTERED this *5th* day of *February*, 1982.

*/s/ Holland O. Woodward?*
Chief United States District Judge

[N.B. This page contains eight more blanks with signatures, mostly illegible, all titled "United States District Judge." *HLT*]

[⊥ 25]

[N.B. This page contains three more blanks with signatures, but no typed names, all titled "United States District Judge." *HLT*]

[⊥ 26]

[EXHIBIT 1] [2]

IN THE UNITED STATES DISTRICT COURT
FOR THE _____ DISTRICT OF _____

| | | |
|---|---|---|
| _____ | ) | |
| Plaintiff | ) | |
| vs. | ) | Docket No. _____ |
| _____ | ) | |
| Defendant | ) | |
| | ) | |

CONSENT TO PROCEED BEFORE A
UNITED STATES MAGISTRATE

In accordance with the provisions of 28 U.S.C. §636(c), the parties to the above captioned civil matter hereby waive their right to proceed before a judge of the United States district court and consent to have a United States magistrate conduct any and all further proceedings in the case (including the trial) and order the entry of a final judgment.

The parties further agree and consent to the following method of appeal, in the event an appeal is sought from the judgment of the magistrate (check one):

_____ In accordance with 28 U.S.C §636(c)(3)

[2] [N.B. Not legible, but what's left highly suggests this. *HLT*]

any appeal shall be taken to the United States Court of Appeals for the Fifth Circuit.

_____ In accordance with 28 U.S.C. §636(c)(4) any appeal shall be taken to a judge of the district court. *

* An appeal under §636(c)(4) does not bar an appeal to the Fifth Circuit as provided by §636(c)(5).

Party or Counsel of Record Date

_____ _____

_____ _____

_____ _____

NOTE- Return this form to the District Clerk only if it has been executed by all parties to the case.

---

ORDER OF REFERENCE

IT IS HEREBY ORDERED that the above captioned matter be referred to United States Magistrate _____ for the conduct of all further proceedings and the entry of judgment in accordance with 28 U.S.C. §636(c) and the foregoing consent of the parties.

_____ _____

DATE UNITED STATES DISTRICT JUDGE

[⊥ 27]

[EXHIBIT 2] [3]

## NOTICE OF RIGHT TO CONSENT TO DISPOSITION OF A CIVIL CASE BY A UNITED STATES MAGISTRATE

In accordance with the provisions of 28 U.S.C. §636(c), you are hereby notified that the United States magistrates of this district court, in addition to their other duties, may, upon the consent of all the parties in a civil case, conduct any or all proceedings in a civil case, including a jury or non-jury trial, and order the entry of a final judgment. Copies of appropriate consent forms for this purpose are available from the clerk of the court.

You should be aware that your decision to consent, or not to consent, to the referral of your case to a United States magistrate for disposition is entirely voluntary and should be communicated solely to the clerk of the district court. Only if all parties to the case consent to the reference to a magistrate will either the judge or magistrate to whom the case has been assigned be informed of your decision. The parties must consent within twenty days of the date answer(s) or responsive pleadings are filed by the defendant(s), unless otherwise permitted by the district court. Upon consent of all parties reference to a magistrate is subject to the approval and order of the district judge to whom the case is assigned.

The provisions of 28 USC §636(c)(3) and (4)

---

[3] [N.B. Not legible, but what's left highly suggests this. *HLT*]

permit alternative appeals procedures, either directly to the United States Court of Appeals for the Fifth Circuit or to the district judge that referred the case to the magistrate. An appeal to the district judge does not bar a party from thereafter appealing to the Fifth Circuit as provided by §636(c)(5). In the event that the parties consent to a trial before the magistrate, they must also agree to the method of appeal at the time the consent form is executed, unless otherwise permitted by the district court.

1994 Feb. 18.

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
**F I L E D**

FEB 1 8 1994

NANCY DOHERTY, CLERK
By: _____
Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

---

**MISCELLANEOUS ORDER NO. 6**

The attached amendment to Miscellaneous Order No. 6, Rule 4 was considered and adopted by the United States District Judges for the Northern District of Texas. This amendment is effective February 21, 1994. The Clerk of Court is directed to make the necessary distribution.

SO ORDERED.

DATED: February *18*, 1994.

*/s/ Barefoot Sanders*
BAREFOOT SANDERS, CHIEF JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS [⊥ 2]

## RULE 4. REVIEW OF MAGISTRATE JUDGE ORDERS AND RECOMMENDATIONS AND APPEALS TO DISTRICT JUDGE OF CIVIL CASES TRIED BY CONSENT.

(a) Nondispositive Matters. Review of an order entered by a magistrate judge in a pretrial matter not dispositive of a claim or defense of a party shall be governed by Fed. R. Civ. P. 72(a). The district judge to whom the case is assigned may prescribe supplemental procedures for considering timely objections.

(b) Dispositive Motions and Prisoner Petitions. A magistrate judge assigned without consent of the parties to hear a pretrial matter dispositive of a claim or defense of a party or a prisoner petition challenging the conditions of confinement shall enter a recommendation in accordance with Fed. R. Civ. P. 72(b). A party objecting to the recommended disposition, and a party who desires to respond to another party's objections, shall comply with Fed. R. Civ. P. 72(b). The district judge to whom the case is assigned may prescribe supplemental procedures for considering timely objections.

(c) Special Master Reports. Objections to a magistrate judge report filed pursuant to Fed. R. Civ. P. 53(e)(2) shall be filed in accordance with that Rule. The district judge to whom the case is assigned may prescribe supplemental procedures for considering timely objections.

(d) Appeals to District Judge of Civil Cases Tried by

Consent. Appeals to a district judge pursuant to Fed. R. Civ. P. 73(d) from judgments in civil cases tried by a magistrate judge by consent of the parties shall be governed by Fed. R. Civ. P. 74, 75, and 76. Local Rules 5.3 and 5.1(g) shall govern the length and form of briefs and the opportunity for the parties to be heard on oral argument.

---

1996 Mar. 25.

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
**F I L E D**

MAR 2 5 1996

NANCY DOHERTY, CLERK
By: /s/ ??
Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

MISCELLANEOUS ORDER NO. 6

ORDER

In light of the substantial number of *pro se* civil rights actions filed in the Northern District of Texas, and in light of the fact that such cases are now

assigned cause numbers and docketed by the District Clerk prior to any judicial review, the Magistrate Judges for the Northern District of Texas are hereby authorized, *sua sponte* or upon motion of a party, to order consolidation of such cases where two or more such actions involve common questions of law or fact and, following consolidation, to order the parties to file amended pleadings in the first filed action presenting all claims or defenses asserted. (See Rule 42(a), Federal Rules of Civil Procedure). After consolidation of two or more *pro se* civil rights cases, all legal documents filed shall bear only the style and docket number of the case first filed and the later filed case(s) shall be terminated.

ENTERED this *25* day of *MARCH*, 1996.

*/s/ Jerry Buchmeyer*
JERRY BUCHMEYER, Chief Judge
United States District Court
Northern District of Texas

MAR 25 1996 [4]

---

[4] [N.B. The stamp on the reverse, which bled through, is rendered as if on the front. *HLT*]

1997 Sep. 22.

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
**F I L E D**

SEP 2 2 1997

NANCY DOHERTY, CLERK
By: /s/ *Y. Kelly*
Deputy

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE NORTHERN DISTRICT OF TEXAS**

---

MISCELLANEOUS ORDER NO. 6

ORDER

Because an order transferring venue is a non-dispositive order which may be entered by a magistrate judge pursuant to 28 U.S.C. §636(b)(1)(A), the district judges of this court conclude that it is not necessary for the magistrate judges to use the report and recommendation procedure in connection with 28 U.S.C. §§1404 and 1406 or 28 U.S.C. §2241(d) transfers of venue in cases filed by prisoners and in *pro se* civil actions in which plaintiffs seek to proceed *in forma pauperis*.

Notwithstanding contrary language in earlier referral orders, magistrate judges are authorized, without utilizing the report and recommendation procedure, to sign orders transferring cases filed by prisoners or by *pro se* plaintiffs seeking to proceed *in forma pauperis* to the proper or more appropriate

district or division.

SO ORDERED.

DATED: September 22, 1997

/s/ *Jerry Buchmeyer*
JERRY BUCHMEYER, CHIEF JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

---

1998 Oct. 1.

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
**F I L E D**

OCT – 1 1998

NANCY DOHERTY, CLERK
By: /s/ *Y. Kelly*
Deputy

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE NORTHERN DISTRICT OF TEXAS**
**FORT WORTH DIVISION**

---

## MISCELLANEOUS ORDER NO. 6

It is ORDERED that commencing October 1, 1998, the clerk of court shall include United States Magistrate Judge Charles Bleil in the automated civil case assignment system in the same manner as Fort Worth Division district judges, except no case in which a temporary restraining order or other preliminary injunctive relief is sought, bankruptcy matter (including a motion to withdraw reference), or case required by the Constitution or laws of the United States to be assigned to an Article III district judge shall be assigned to Judge Bleil. The chief judge will, from time to time, provide the proportion of civil cases to be assigned to Magistrate Judge Bleil in Special Order No. 3.

When Magistrate Judge Bleil is initially assigned to a case, he is to provide consent forms to the parties in the case to be executed and returned to the district clerk within twenty days. Although consent to a magistrate judge is voluntary, return of the executed form within twenty days of appearance is mandatory. A party does not waive jurisdictional or other defenses by filing the consent form. A party's refusal to consent to Magistrate Judge Bleil will not be docketed on the public docket or made part of the regular case file folder.

In each case assigned to Magistrate Judge Bleil, it is ORDERED that Judge Bleil shall conduct all further proceedings, including a jury or bench trial, and order the entry of a final judgment in accordance with 28 U.S.C. §636(c). If all parties do not consent to Magistrate Judge Bleil, the case will remain with Judge Bleil until the clerk is directed to randomly

select a district judge and reassign the case. After reassignment to a district judge, Magistrate Judge Bleil shall, unless the district judge otherwise orders, exercise all powers permitted by 28 U.S.C. §636(b). [⊥ 2]

Nothing in this Order shall be construed as an attempt to deprive or abridge a party's constitutional right to an Article III district judge.

**SO ORDERED.**

October 1, 1998

FOR THE COURT:

*/s/ Jerry Buchmeyer*
JERRY BUCHMEYER, CHIEF JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

**Special Order 2-59 (2005 May 5)**

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
**F I L E D**

MAY – 5 2005

CLERK, U.S. DISTRICT COURT
By: */s/ Y. Kelly*
Deputy

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

Special Order No. 2-59

1. The District Judges of this Court have considered and adopted amended Miscellaneous Order No. 6, an "Order for the Adoption of Rules for the Exercise of Powers and Performance of Duties by United States Magistrate Judges." This amended order shall take effect immediately and shall apply to all proceedings in civil and criminal actions hereafter commenced and, insofar as just and practicable, all proceedings in civil and criminal actions now pending.

2. All prior miscellaneous and special orders of this Court are superseded by amended Miscellaneous Order No. 6 to the extent they are inconsistent with its terms.

**SO ORDERED.**

May 5, 2005.

FOR THE COURT:

*/s/ A. Joe Fish*
A. JOE FISH, CHIEF JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS [⊥ 2]

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
**F I L E D**

MAY – 5 2005

CLERK, U.S. DISTRICT COURT
By: */s/ Y. Kelly*
Deputy

LOCAL RULES COMMITTEE
PROPOSED REVISION OF
MISCELLANEOUS ORDER NO. 6

ORDER FOR THE ADOPTION OF RULES FOR
THE EXERCISE OF POWERS
AND PERFORMANCE OF DUTIES BY
UNITED STATES MAGISTRATE JUDGES

RULE 1

POWERS AND DUTIES OF
MAGISTRATE JUDGES

A magistrate judge appointed to serve in the United States District Court for the Northern District of Texas is hereby granted authority and is specially designated to perform all duties that maybe

performed by a United States magistrate judge under law. A magistrate judge has all power necessary to perform such duties except as otherwise limited bylaw. Nothing in this Miscellaneous Order should be construed as limiting the powers of the district judge to perform all such duties, except as otherwise limited by law.

## RULE 2

## ADDITIONAL POWERS AND DUTIES OF MAGISTRATE JUDGES UNDER 28 U.S.C. § 636(b)

a. Unless otherwise directed by the presiding district judge, a magistrate judge serving within the Northern District of Texas is authorized, without further order of the court, to perform the following duties in all actions filed by prisoners, persons proceeding *pro se*, or persons seeking leave to proceed *in forma pauperis*:

(1) Review and construe papers presented to the clerk and direct the clerk as to whether [⊥ 3] and in what manner said papers will be accepted, if appropriate, for filing or other disposition by the court;

(2) Direct a litigant to resubmit pleadings or other filings on forms approved by the court, or to provide a more definite statement or amended pleadings, and to issue notices of deficiency as authorized by the rules and orders of this court;

(3) Order that the matter be transferred to another district or division if venue is not properly laid in the Northern District of Texas or the particular division in which the action was filed, or

when venue is more appropriate in another district or division;

(4) Determine whether leave to proceed *in forma pauperis* should be granted unconditionally or provisionally, and to

(a)(i) enter orders permitting a *pro se* litigant to proceed *in forma pauperis*; (ii) grant leave to proceed *in forma pauperis* to a person seeking relief pursuant to 28 U.S.C. Sections 2241 and 2254, if the average six month balance of the person's inmate trust account and other financial resources are less than Fifty Dollars; and (iii) enter orders to assess and collect filing fees pursuant to the Prison Litigation Reform Act of 1996; or

(b) in the event that the magistrate judge determines that a person is not entitled to proceed *in forma pauperis*, file a recommendation setting out the reasons for the determination pursuant to 28 U.S.C. § 636(b)(1)(B);

(5) Direct litigants seeking leave to proceed *in forma pauperis* to provide additional financial information necessary to determine whether leave should be granted and to take appropriate steps or make appropriate recommendations in the event that the litigant does not provide the information; [⊥ 4]

(6) Conduct such proceedings and enter such orders as are necessary to screen matters pursuant to 28 U.S.C. § 1915, 28 U.S.C. § 1915A, 42 U.S.C. § 1997e or other provision of applicable law, including but not limited to the issuance of questionnaires, orders requiring further or more definite statement, and hearings;

(7) After screening, make all necessary and appropriate reports and recommendations if the magistrate judge determines that claims or cases are subject to dismissal under 28 U.S.C. § 1915, 28 U.S.C. § 1915A, 42 U.S.C. § 1997e or other applicable law;

(8) After screening, make all necessary orders for issuance and service of process if leave to proceed *in forma pauperis* is granted;

(9) Make appropriate orders or reports and recommendations in proceedings brought pursuant to 28 U.S.C. Sections 2241, 2254 and 2255;

(10) Upon an order of transfer from the presiding district judge, exercise jurisdiction under 28 U.S.C. § 636(c) if, prior to service of process, the parties to the action consent to proceed before the magistrate judge; and

(11) Make appropriate orders or reports and recommendations on motions for certificates of appealability.

b. A magistrate judge performing any duties under this Rule shall have all powers necessary to perform such duties except as otherwise limited by law. [⊥ 5]

## RULE 3

## ASSIGNMENTS TO MAGISTRATE JUDGES

In a division with more than one magistrate judge, the clerk will select a magistrate judge in accordance with the court's random assignment procedure from among all magistrate judges in that division for any matters referred or transferred

pursuant to 28 U.S.C. § 636(c) by the presiding district judge. This method of assignment does not limit the district-wide jurisdiction of a magistrate judge.

## RULE 4

## CONSENT TO EXERCISE OF JURISDICTION BY A MAGISTRATE JUDGE

a. At the time any action that maybe tried by consent before a magistrate judge pursuant to 28 U.S.C. § 636(c)(1) is filed or as soon thereafter as is practicable, the clerk will provide plaintiff or plaintiffs representative an approved notice and consent form, along with a sufficient number of copies for the plaintiff to attach to the complaint and summons, when served. The plaintiff, or the defendant if the plaintiff is acting *pro se*, will be primarily responsible for securing the execution of a consent form by the parties and for filing such form with the clerk.

b. If, after the clerk has notified the parties of the availability of a magistrate judge to exercise jurisdiction, and that such consent is wholly voluntary and without any adverse consequences if a party chooses not to consent, and upon the written consents of all parties and upon an order of transfer from the presiding district judge, the clerk will reassign the case to the designated magistrate judge for all further proceedings as provided for in 28 U.S.C. § 636(c). A part-time magistrate judge may exercise consent jurisdiction when the chief judge of the court certifies that [⊥ 6] a full-time magistrate

judge is not reasonably available in accordance with guidelines established by the judicial council of the Fifth Circuit.

c. Upon the death, retirement, disqualification or resignation of a magistrate judge exercising jurisdiction under this Rule, the case will be reassigned to another magistrate judge, unless a party consented to a specific magistrate judge.

**SO ORDERED.**

May 5, 2005.

FOR THE COURT:

*/s/ A. Joe Fish*
A. JOE FISH, CHIEF JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

## Rule 14.1(i)(vi)—Additional Materials

**The "Ticket"—2007 Jan. 24**

CITATION

Municipal Court
717 FM 2821 W. Ste. 200
Huntsville, Texas 77320
(936) 291-5476

No. 213470

| DL/ID,Number | State | Date | Time *AM* |
|---|---|---|---|
| *None* | | *1-24-07* | *4:32* |

| Race | Sex | Date of Birth | Social Security Number |
|---|---|---|---|
| *W* | *M* | *5-12-61* | *None* |

| Last Name | First Name | M.I. |
|---|---|---|
| *Taylor* | *Harmon* | *Luther* |

| Present Address | City | State | Zip |
|---|---|---|---|
| *7014 Mason Dells Drive* | | *Dallas* | *TX 75230* |
| Permanent Address | City | State | Zip |

| Home Phone | Work Phone | Other Phone |
|---|---|---|
| *214-361-0401* | | |

| Occupation | School | ID# |
|---|---|---|
| *Lawyer* | | |

| Employer | Employer Address |
|---|---|
| *Self Employed* [5] | |

[5] [N.B. "Sole proprietor" got translated. At a glace, it looked right. *HLT*]

Violations(s) [sic] Charged

1. *No Drivers License*
2.
3.

Direction of Travel Lane | Location of Violation(s)
*NB* | *I H 45 111 MM*

Alleged Speed | Speed Limit | Weather
*76* | *65* | *Rain*

Road Condition | Traffic Condition
*Wet* | *Med.*

| Vehicle Description | | | | Registration | |
|---|---|---|---|---|---|
| Year | Make | Model | Color | State | Number |
| *97* | *Dodge* | *Caravan* | *Blue* [6] | *TX* | *BH80SH* |

Nature of Contact: ☒ Traffic Stop
☐ Accident
☐ Other_____

☐ Commercial Vehicle
☐ Hazardous Chemical

Additional Information/Warnings(s)
*Speeding / LP Light*

Officer | I.D. Number
*B. Galle* | *245*

[6] [N.B. It's tough in headlights to distinguish the light green turquoise from a light blue. *HLT*]

PROMISE TO APPEAR
THIS IS NOT A PLEA OF GUILTY

I understand that I must appear at the Municipal Court on or before ten calendar days from this date. Failure to appear or to satisfy a judgment ordering payment may result in subsequent, additional charges or renewal of your driver's license being denied. Additional information on BACK

*without prejudice*

X /s/ *Harmon Taylor* *without the*

*United States*

VIOLATOR'S [7] COPY [⊥ 2 ]

**Juvenile** - If you are under the age of 17, your parent and/or legal guardian will be sent a notice of your court appearance date. Parent and/or legal guardian must appear in court with juvenile defendants.

If you have been charged with an alcohol violation and you are under the age of 21, you **must** set a court date to appear before the Municipal Court Judge.

If you have been charged with a tobacco violation and you are under the age of 18, you **must** set a court date to appear before the Municipal Court Judge. **Expired violations may** be dismissed with a $10 dismissal fee if proof of compliance is provided to the court on or before ten calendar days of the date of this citation. **Expired registration** will not be dismissed without proof of penalty fee being paid at

[7] [N.B. Rather presumptuous position. *HLT*]

the time the registration is renewed.

You may be eligible to take defensive driving, request deferred disposition (probation) or payment plan. You can also have your case set for court. Please contact the Court Clerk for more information at (936) 291-5476. Municipal Court office hours are 8:00 to 4:30 Monday - Friday. **You must appear at the Municipal Court office on or before the tenth calendar day of the date of this citation to pay your fine or make other arrangements.**

State law requires the defendants under the age of 25 who are placed on deferred disposition (probation) for a traffic violation must take a driver safety course.

If you have been charged with a traffic violation and have a commercial driver's license, you are not eligible for any type of deferred disposition or driver safety course.

Please contact the Municipal Court Clerk for fine, costs and fee information. Payment can be made in full on line at www.huntsvilletx.gov, by mail or by phone with credit card only. Checks and money orders should be made payable to the City of Huntsville.

**A conviction of an offense under a traffic law of this state or a political subdivision of the state may result in the assessment on your driver's license of a surcharge under the Driver Responsibility Program.**

**A second or subsequent conviction of an offense under the Texas Motor Vehicle Safety Responsibility Act will result in the suspension of your driver's license and motor vehicle registration unless you file and maintain evidence of financial responsibility with the Department of Public Safety for two years from the date of conviction. The department may waive the requirement to file evidence of financial responsibility if you file satisfactory evidence with the department showing that at time this citation was issued, the vehicle was covered by a motor vehicle liability insurance policy or that you were otherwise exempt from the requirements to provide evidence of financial responsibility.**

**The "Complaint"—2007 Apr. 5**

CAUSE NUMBER: 213470 -01

STATE OF TEXAS
VS
TAYLOR, HARMON LUTHER

IN THE MUNICIPAL COURT
CITY OF HUNTSVILLE
WALKER COUNTY, TEXAS

==========

COMPLAINT

==========

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:

I, the undersigned affiant, do solemnly swear that I have good reason to believe and do believe that HARMON LUTHER TAYLOR , hereinafter called Defendant, on or about the 24th day of January, 2007 , and before the making and filing of this complaint, in the territorial limits of City of Huntsville, in the County of Walker, and the State of Texas, did then and there operate a motor vehicle upon a public street, to-wit:

IH45 MILE MARKER 111

and the defendant did not have a valid Texas Driver's License as required by, Texas Transportation Code Section 521.021

AGAINST THE PEACE AND DIGNITY OF THE STATE OF TEXAS

/s/ *Celia D. O'Dell*
Affiant [8]

Sworn and subscribed before me a credible person the 5th day of April, 2007

/s/ *Heather Smallwood [via stamp]*
CLERK, Huntsville Municipal Court
City of Huntsville
Walker County, Texas

CALLE #245 BLAKE

(Seal)
MUNICIPAL COURT
CITY OF HUNTSVILLE TEXAS

[8] [N.B. O'Dell is a clerk with the municipal court. *HLT*]

**The "Agreement" – 2008 Oct. 29**

No Oral Argument Requested

---

In The
COURT OF CRIMINAL APPEALS OF TEXAS

---

**No. PD-1523-08**

---

**HARMON LUTHER TAYLOR,**
**Defendant – Appellant – Petitioner,**

**v.**

**STATE OF TEXAS,**
**Plaintiff – Appellee – Respondent.**

---

---

On Petition for Discretionary Review of the
Judgment of the
TENTH COURT OF APPEALS in
No. 10-08-**00208**-CR

Dismissing the
COLLATERAL ORDER DOCTRINE appeal from the
COUNTY COURT AT LAW OF WALKER COUNTY
Case No. 07-1392

---

# PETITIONER'S FIRST STATUS REPORT

**Assertion of Rights**

Harmon Luther Taylor ("Taylor") asserts all his unalienable rights, privileges and immunities at Natural Law, Common Law and Maritime Law, and all his commercial rights relevant to this state.

**Taylor's First Status Report**

Following the appellate court's published ruling of 3 September, and despite Taylor's having filed his petition for discretionary review as of 5 September, the county court issued an order on 9 September setting this case on that court's jury trial calendar. That order is attached to Taylor's First Motion for Contempt.

There was no Notice from the court that any other thinking about scheduling had been reached or applied; there was no motion by STATE for a continuance; Taylor certainly filed no such motion; and, yet, when Taylor appeared in person, in Huntsville, at 9:00 a.m. (local time), per the Scheduling Order of 9 September, the trial court said, "I hadn't expected to see you here this morning."

Taylor v. State was on that court's Docket Call sheet, but the case was not called. Taylor made mention of that fact to the clerk at the first break, and being right there at the bench, Taylor was able to discuss the matter briefly directly with the trial court judge.

When the trial court mentioned that the reason she had not expected to see Taylor on the 29th, despite it's being on the Docket Call sheet, was that the matter was still on appeal, Taylor said, "Thank God!" This change in handling of this case obviates

Taylor's need to file any ***more*** motions for contempt, as well as any need for any further collateral order doctrine appeals of orders entered during the pendency of this present collateral order doctrine appeal.

Attached is a true and correct copy of the next "reset form." Taylor and the court have the understanding that such resettings will occur until this collateral order doctrine issue is resolved. Any further resettings will be engaged by phone and email.

While we can view the empty part of the glass, reflecting on the extent to which a litigant is compelled to go to be heard, even to mitigate ***STATE's*** damages, today we'll focus on the full part of the glass and the fact that the trial court brings a new perspective to this matter at this time. In sum, it's a material change that there will be no trial court jurisdiction exercised during the pendency of the remainder of this appeal, including this petition, which the appellate court ***finally*** forwarded on to this court and submitted as of 24 October 2008.

Respectfully submitted,

/s/ Harmon Taylor
Harmon Luther Taylor
I reserve all my rights

7014 Mason Dells Drive
Dallas, TX 75230

## Verification

STATE OF TEXAS §
COUNTY OF DALLAS § ss.
KNOW ALL MEN BY THESE PRESENTS

Before me, the undersigned Notary, acting territorially to "this state," "UNITED STATES," and "UNITED NATIONS," personally appeared HARMON LUTHER TAYLOR, known by me, and who, upon administration of oath or affirmation by me, declared and deposed as follows:

I am Harmon Luther Taylor. I am at least 21 years of age, and I am competent to make this Affidavit. I have personal knowledge of these facts, and these facts are true and correct.

The facts asserted in this statement are true and correct. The document attached is a true and correct copy of the document I have received.

Further, Affiant sayeth not.

/s/ Harmon Taylor
Harmon Luther Taylor,
Affiant

Signed and sworn to before me on this the 30th day of October, 2008, for which note my seal and signature.

/s/ (by Notary) (seal)
Notary Public Signature

(If seal is not by stamp, or not legible)

_____
Notary Public Printed Name

My Commission Expires:

_____

**Certificate of Service**

By my signature below, I certify that on this the 30th day of October, 2008, I have served a true and correct copy of this Status Report and its attachment by certified mail on the following:

DAVID P. WEEKS
Walker County DA
1036 11th Street
HUNTSVILLE, TX 77340

Hon. GREG ABBOTT
Attorney General's Office
P.O. Box 12548
Austin, TX 78711-2548

Complimentary service is made as follows:

JAMES D. PATTON
County Clerk, Walker County
P.O. Box 210
Huntsville, TX 77342-0210

Clerk
Huntsville Municipal Court
717 FM 2821 West, Suite 200
Huntsville, TX 77320

TMCEC
1609 Shoal Creek Blvd., Suite 302
Austin, TX 78701

SHARRI ROESSLER, Clerk
Tenth Court of Appeals
510 Washington Avenue, Room 415
Waco, TX 76701-1327

Mr. William Suter, Clerk
Supreme Court of the United States

Hon. Gregory G. Garre
Solicitor General

Blake A. Hawthorne, Clerk
TX Supreme Court

Lisa Matz, Clerk
Fifth District of Texas at Dallas

Robyn Flowers
District Clerk, Walker County

Robert E. Casey, Jr.
SAC, Dallas, FBI

John A. Neal
Chief Disciplinary Counsel

Andrew R. Bland, III
SAC, Houston, FBI

Richard B. Roper, III
US Atty, N.D. TX

Donald J. DeGabrielle, Jr.
US Atty, S.D. TX

Texas Rangers
Company A

/s/ Harmon Taylor
Harmon Luther Taylor

**Bond—2007 May—Notice of Appeal**

**Case No. 213470**

| | | |
|---|---|---|
| STATE OF TEXAS<br>Plaintiff, | § | In The Municipal Court |
| v. | § | CITY OF HUNTSVILLE,<br>TEXAS |
| Harmon Luther Taylor,<br>Respondent. | § | WALKER COUNTY,<br>TEXAS |

**TAYLOR'S APPEAL BOND**

Whereas, on the 17th day of May, A.D. 2007, in the above entitled and numbered cause, in said Municipal Court, a Judgment was rendered and entered against the Respondent, Harmon Luther Taylor, convicting him of the misdemeanor offense of NO DRIVER'S LICENSE upon complaint filed in said court, that STATE OF TEXAS, for the use and benefit of CITY OF HUNTSVILLE, TEXAS, have and recover of the said defendant the sum of **one hundred dollars** ($ 100) fine and all costs of said prosecution, set at **sixty-five dollars** ($ 65) from which said Judgment the defendant has appealed to the County Court at Law of Walker County, which sits in Huntsville, Texas;

Now, therefore, we, the said Harmon Luther Taylor, as principal, and as surety, do hereby bind myself, my heirs, executors and administrators, jointly and severally, to STATE OF TEXAS, in the sum of **three hundred thirty dollars** ($ 330) payable to STATE OF TEXAS, for the use and benefit of the said CITY OF HUNTSVILLE,

TEXAS ; and in addition thereto, I am bound for the payment of all necessary and reasonable fees and expenses that may be incurred by any and all sheriffs or other peace officers in arresting the principal in the event the conditions of this bond are violated.

Conditioned, that the said Respondent shall well and truly make his personal appearance before the County Court At Law of Walker County, instanta at Huntsville, Texas, as well as before any court to which the same may be transferred and for any and all subsequent proceedings that may be had relative to said charge in the course of criminal actions based on said charges, and there remain from day to day, and term to term, to answer said cause on trial in said court.

Witness my hand this the _____ day of May, A.D. 2007.

_____ _____
Respondent/Surety Signature Printed Name

_____
Respondent/Surety Domicile

Examined and approved this _____ day of _____, A.D. 2007.

_____
Municipal Court Judge
Huntsville, Walker County, Texas

state of Texas §
county of Dallas§

KNOW ALL MEN BY THESE PRESENTS ss.

Before me, the undersigned authority, personally appeared Harmon Luther Taylor, surety of this

bond and upon his or her affirmation, duly administered by me, deposed and said as follows:

I am Harmon Luther Taylor, and I am worth, in my own right, at least the sum of **three hundred thirty dollars** ($ 330), after deducting from my property all that which is exempt by the Constitution and Laws of the state of Texas from forced sale, and after the payment of all my debts of every description, whether individual or security debts, and after satisfying all encumbrances upon my property which are known to me; that my domicile is in the county of Dallas, and that I have property in the state liable to execution worth said amount or more.

_____

Affiant

Signed and sworn to before me on this the _____ day of May, A.D. 2007, for which witness my seal and signature.

_____ (seal)

Notary Public Signature

(If seal is not by stamp, or not legible)

_____ My Commission Expires:

Notary Public Printed Name

_____

[N.B. Taylor signed the Bond before the notary on 21 May A.D. 2007.]

## Appendix B—Municipal Court

**2007 Feb. 19—Notice of hearing date**

CITY OF HUNTSVILLE
MUNICIPAL COURT
717 FM 2821, WEST
SUITE 200
HUNTSVILLE, TX 77320
(936) 291-5476

February 19, 2007

HARMON LUTHER TAYLOR
7014 MASON DELLS DRIVE
DALLAS, TX 75230

Re: State of Texas VS HARMON LUTHER TAYLOR
Cause/Case No.: 213470 -01
Offense: [1] DRIVERS LICENSE – NO LICENSE

The above referenced case/cause has been set for:

___ Pre-Trial ___ Bench Trial ___ Jury Trial
_✓_ Motion Hearing

___ Preliminary Hearing

on April 5, 2007 at 8:30 AM in the Muncipal [sic] Court, 717 FM 2821, West, Huntsville, Texas.

---

[1] [N.B. *But see* TEX. PENAL CODE § 2.01. *HLT*]

FAILURE TO APPEAR MAY RESULT IN THE ISSUANCE OF A WARRANT FOR YOUR ARREST. AN ADDITION [sic] $50.00 FEE WILL BE ADDED TO THE ORIGINAL CHARGE AND $310.00 FOR THE FAILURE TO APPEAR WARRANT. FURTHERMORE, pursuant to Texas Transportation Code, Chapter 706, The Municipal Court may DENY RENEWAL OF YOUR DRIVER'S LICENSE, REMAINING IN EFFECT UNTIL YOU HAVE REACHED A SATISFACTORY DISPOSITION ON THE OUTSTANDING VIOLATION(S).

If you have any questions, please contact the Municipal Court at the number listed above.

For the Court,

Municipal Court [2]
Docket Clerk

✓ Certified Mail: *7006 0810 0005 2251 1017*

✓ Regular Mail FORM - DEFLTR

---

[2] [N.B. Original is unsigned. *HLT*]

**2007 Apr. 5—Judicial entry of plea for Taylor**

JUDGMENT / COURT ORDER

STATE OF TEXAS CITY OF HUNTSVILLE

VS WALKER COUNTY, TEXAS

***Harmon Luther Taylor***

DEFENDANT: ~~TAYLOR, HARMON LUTHER~~

/ CAUSE #: 213470 -01

On April 5, 2007 the Defendant in the above numbered and entitled cause appeared in Municipal Court [3] and entered a plea of

_X_ [4] NOT GUILTY. Case will be set on trial docket. ***(By the court)***

___ NO CONTEST / GUILTY and waived his/her right to a jury trial; and the Court, finds the Defendant GUILTY of the offense of DRIVERS LICENSE - NO LICENSE

Fine and Court Costs are assessed at $_____.

___ withholds its findings and judgment is suspended for 90 days**.

IT IS ORDERED AND ADJUDGED as follows:

__ Fine & Court Costs be paid on or before _____

__ Fine & Court Costs be paid in full on or before_

__ Defendant must pay $100.00 by _____ and a

---

[3] [N.B. First indication of forum type or authority. *HLT*]

[4] [N.B. This "X" and GAINES' signature are the only two handwritten items on this one written by the judge. All others are by Taylor. First came the "X;" then Taylor's edits; then GAINES' signature. *HLT*]

minimum of $100.00 per month on or before the last business day of each month until paid in full beginning _____. NO EXTENSIONS.

__ Community Service ___ hours (proof of completion) due on or before _____. (___ Please check here if in lieu of fine)

__ Alcohol Awareness Course(6 Hrs)must be completed and presented to the court on or before _____ (MUST BE A STATE CERTIFIED PROGRAM)

__ Tobacco Awareness Course(6 Hrs)must be completed and presented to the court on or before_____ (MUST BE A STATE CERTIFIED PROGRAM)

__ Driver's License suspension for _____ days

__ **Deferred Disposition for 90 days. Court Costs in the amount of $65.00 is due immediately. Special expense fees of $_____ due on or before ____. Defendant cannot have any subsequent charges within deferred period.

__ Driver Safety Course(State Certified). Court costs & DSC Admin Fee in the amount of $_____ is due immediately. Failure to make payment will result in a warrant for the maximum fine and court costs.

__ Other/Additional _____

__ Reset to (___) _____ at _____ AM / PM Failure to appear will result in a FTA and warrant ( Court / Def / Atty )

A TWENTY-FIVE [sic] ($25.00) TIME PAYMENT FEE WILL BE ADDED TO ANY PART OF A FINE, COURT COSTS OR RESTITUTION NOT PAID ON OR BEFORE THE 31ST DAY AFTER THE DATE ON WHICH JUDGMENT IS ENTERED, pursuant to Article 51.921 of the Government Code.

IT IS FURTHER ORDERED AND ADJUDGED, that if the Defendant FAILS TO COMPLY with the orders of this judgment a CAPIAS PRO FINE WARRANT WILL BE ISSUED FOR HIS/HER ARREST AT A RATE OF $50 PER DAY IF ARRESTED AND BE DENIED THE RENEWAL OF YOUR DRIVER'S LICENSE AND ADDITIONAL FEES, REMAINING IN EFFECT UNTIL YOU HAVE REACHED A SATISFACTORY DISPOSITION ON THE OUTSTANDING VIOLATION. NON COMPLIANCE FOR MINOR ALCOHOL VIOLATIONS WILL. RESULTS IN A 6 MONTHS SUSPENSION OF YOUR DRIVERS LICENSE. April 5, 2007

| | |
|---|---|
| _____ | /s/ *John Gaines* |
| Defendant Signature | Municipal Court Judge |

***Refused without prejudice without the United States*** ***5 April A.D. 2007***

**2007 Apr. 5—Notice of trial setting**

CAUSE NO: 213470 -01

The State of Texas — In the Municipal Court
County of Walker — City of Huntsville

VS

~~HARMON LUTHER TAYLOR~~ ***Harmon Luther Taylor***

JURY TRIAL

KNOWN ALL MEN THESE PRESENTS, THAT I, the above name defendant and as Principal, acknowledge myself to owe and be indebted to the STATE OF TEXAS in the amount of TWO HUNDRED AND NO/100 DOLLARS and in addition thereto: I am bound for the payment of all fees and expenses that may be incurred by peace-officers in rearresting principal in the event the conditions of this bond are violated for the payment of which sum or sums, well and truly to the STATE of TEXAS, I hereby bind myself, my executors and administrators firmly by the presents:

I SWEAR ^ ***or Affirm 28 USC 1746(1) without the United States*** that I will appear before said Court, 717 FM 2821 WEST, Huntsville, Texas, on DATE AND TIME: the 17th day of May, 2007 at 8:30 AM [5] o'clock ***Time of 13:30 GMT***
or upon notice by the necessary and reasonable expenses incurred in my arrest for FAILURE TO APPEAR. ALL RESETS MUST BE APPROVED BY THE MUNICIPAL COURT JUDGE.

I further swear ^ ***or Affirm 28 USC 1746(1)***

[5] [N.B. This underline was in the document handed to Taylor. All other handwriting on this form is Taylor's. *HLT*]

***without the United States*** that the information I have provided below is true and correct.
CONDITIONED: That whereas the said PRINCIPAL stands charged by complaint with a CLASS C MISDEMEANOR, To-Wit DRIVERS LICENSE – NO LICENSE in violation of the laws of the ~~State of Texas~~.
***STATE OF TEXAS.***

***Harmon Luther Taylor***

Now, if the said ~~HARMON LUTHER TAYLOR~~ shall well and truly make his/her personal appearance before the Municipal Court of Huntsville, Walker County, Texas at the time and place stated above, and there remain day to day and term, until discharged by due course of the law, then and there to answer said accusation and any and all subsequent proceeding had relative to the charge against him/her, then this obligation shall become null and void, otherwise to remain in full force and effect.

IF YOU ARE REPRESENTED BY AN ATTORNEY, YOU AND YOUR ATTORNEY MUST APPEAR FOR ALL HEARINGS.

Date of Birth _____ Drivers License No./ST ***none***

Current Address ***near 7014 Mason Dells Drive***

Social Security # ***none*** Employer ***none***

Home Phone ***none*** Work Phone ***none***

Name, Address, and Phone # of two people you know:

*UNDER DURESS*
*THREAT OF*
*CONTEMPT*

1. *declined*

2. *(see reverse)* [6]

*without prejudice*

*5 April A.D. 2007* /s/*Harmon Taylor without the*
Date Defendant Signature
*United States*

---

[6] [N.B. Taylor declines to reproduce here what he recalls of that page. It's two names, addresses, and phone numbers that GAINES didn't need. *HLT*]

**2007 Apr. 5—Viva voce**

- Special Appearance, Motion to Dismiss—denied.
- *Sua sponte* mandamus, to name two contact people, issued under ***boisterous***, demonstrative, **"But, fill it out, or you're going to be wearin' an orange suit real soon!!"** , and ***repeated***, **threat of contempt**.
- *Sua sponte* injunction of silence.
- Effective promise of denial of writ of Venire facias ("You're only going to get a panel of six. ... **No, we don't have a Due Process problem, here!**")
- Maybe-I-will-and-maybe-I-won't effective refusal, ***twice***, to memorialize the viva voce orders.

**Regarding the non-existence of municipal court orders**

Standard, routine objections taken personally?

Routine proceedings turned rather nasty rather early. Taylor opened the 5 April hearing by requesting judicial notice of the Record or the opportunity to call the Clerk to the stand. The judge opened the file and asked of what he should take particular Notice. Taylor said, "What's not there."

Traditional, typical absences in municipal court Records.

Taylor's motion contains his objections, but, as of the hearing, these ideas seemed to be first impression. (*But cf. Rothgery v. Gillespie County*, 554 U.S. 191 (2008) (the arraignment ***is*** a

"proceeding")). As of the hearing date and time, the Record contained (1) no "complaint" and (2) no proof of any service of any "complaint," at *any* time, much less in compliance with Art. 45.018(b).

On the left was the "ticket;" on the right, Taylor's motion and the hearing Notice. STATE filed no response.

The first proceeding was the motion hearing.

The docket was called at 8:30 a.m., and the hearing was conducted at the bench starting in earnest right at 8:45 a.m. (CDT). If someone in the gallery, at least 25' away, listened closely, he could likely make out the conversation. The ruling, **Denied**, about 8:50 a.m., was a proclamation to all in the gallery.

The second proceeding was the "arraignment."

Immediately afterwards, the court started an "arraignment."

GAINES: You're being charged with .... [7] How do you plea?

Taylor: I'm not pleading. There's nothing to which to plea.

GAINES: Well, I'll set you a trial date, and I'll enter a plea of Not Guilty for you.

Taylor: Can you provide a Venire to be drawn from the vicinage that can be instructed to determine the law as well as the facts?

GAINES: I would empanel a jury.

Taylor: If I put myself on the country and demand a writ of Venire ...

---

[7] [N.B. Conspicuously, the court gave no Notice of any "arraignment" proceeding. To object is to incur another six-hour round trip. As it turns out, something even more valuable than Time, e.g., the rule of law, may be preserved, here. *HL7*]

GAINES: Venire?

Taylor: Twelve people from the vicinage ...

GAINES: You're only going to get a panel of six.

Taylor: Then we have another Due Process problem, don't we?

GAINES: **No, we don't have a Due Process problem, here! We're going to have a trial. Only I'm going to summon a panel, and we're going to have us a jury, and we're going to pick six of 'um, and they're going to decide whether you're guilty or not guilty.**

GAINES assured Taylor that Taylor would be getting a "complaint" shortly. Thus, as of 8:51 a.m., the Record still contained (1) no "complaint" and (2) no proof of service of any "complaint," at *any* time, much less at least one day before "any proceeding." *See* Art. 45.018(b).

The third proceeding included both mandamus and injunctive orders issued *sua sponte.*

The court handled some other cases while additional paperwork was being handled. By about 8:59 a.m., a party named Ortega had not appeared. The judge told those there for that case that a *capias* would be issued and that Ortega would be arrested for not appearing.

The Clerk wanted some information filled in on the "JURY TRIAL" form. During this time, Taylor read it, modified it, dated it, and signed it, with his typical reference to choice of law. The Clerk, unsatisfied, turned the form over to the judge, who became visibly agitated.

(At 9:05 a.m., the following exchange occurred.)

GAINES: We need you to give us the names of two people so that in the event you don't show up, I

can send someone to find you and bring you to court.

Taylor: You have my verified statement that I'll be here.

(Then came the mandamus "display.")

GAINES: We need witnesses for this. **Mr. Bailiff, Madame Prosecutor.** (motioning, hands raised, traditional hand signal for gathering). Make sure that we understand that I'm giving him Notice right now in open court that if you don't comply with my direct order ... [pause]

Taylor: I'm still getting my witness. (Taylor also motioned to his witness, which required turning his head and upper body toward the gallery, thus away from the bench.)

GAINES: I'm giving you Notice to let you know that when I call this, to let you know, and he doesn't show up, Turn Around! Understand, I want to be clear, ...

(Taylor looked back toward the bench, where the judge was still gathering his witnesses. So, Taylor again looked toward the gallery and motioned for his witness also to join the group at the bench, so that Taylor, too, could have a witness to whatever this glorious event was going to be.)

Taylor: My father needs to hear this.

GAINES: I'm, ... You can call ... **you stay ... TURN AROUND, *SIR!*** (GAINES was about to leap over the bench. If he had, he would have left his skin in his chair. Apparently, the judge could gather *his* witnesses, but *Taylor* couldn't gather his.)

GAINES: **If you don't comply, I'm being very, you know, accommodating with you, but if you don't comply and do this, this bailiff, here, he is going to take you into custody, and you're**

**going to spend some days with us in the jail, and you won't be able to get out until I let you out. Do you understand?** [pause] **I'm giving you notice right now. That is a direct, you're going to be held in contempt, direct contempt, if you do not follow my orders. So put this down. If you'll comply with this, it's going to be real simple. You know, this gentleman right here, you know what, you can put him down as you are here. But, fill it out, or you're going to be wearin' an orange suit real soon. I'm not going to be havin' any of this non-sense. You understand me?!**

(The judge, document in hand, thrust the document across the bench in Taylor's general direction.)

(9:06 a.m.)

Taylor: (after taking the document) What's your Social Security Number, please?

GAINES: (Stunned) **You're not entitled to my Social Security Number, *Sir!*** (leaning forward). **Fill out the form, as I've directed, or you won't be leaving this courtroom by the front door.**

Taylor starts rereading the document. [time passes]

(9:07 a.m.)

Taylor: We're going to 'round and 'round on this, aren't we?

GAINES: **We're not going to go 'round on this, because I'll tell you how ... You'll get everything you need ... If you'll follow all the directions this will be very easy. But, in this court, I'm the rule-writer.**

Taylor: If you had the authority.

GAINES: **I have authority**.

Taylor: You have no jurisdiction.

GAINES: **Yes, I do.**

Taylor: Then we're going to go 'round and 'round.

GAINES: **No, we're not. And, I'm going to warn you at this time, you'd best be ... keep your comments to yourself from this time forward or as I've indicated, I'll hold you in direct contempt.**

Taylor: What are you calling comments?

(9:08 a.m.)

GAINES: **Right there. I order you to keep silent.** (leans back) [considerable direct eye contact] ... **Are you finished with the form?"**

As seen on the Ex. D-406, Taylor noted the duress.

(9:08:30 a.m.)

**Are you finished with the form?**

(9:09:10 a.m.)

**Have you finished the form?**

Taylor: Just making real sure you have all this information (turning the page from front to back several times; two names; two addresses; two numbers; the invasion of privacy, under ***vociferous*** threat of contempt for not being invaded, was complete).

(Handing the form, with the information on the reverse side, back across the bench, Taylor inquired about getting draft orders to the court for signature.)

GAINES: You can send 'um, but I'll decide whether I want to sign 'um. (Other brief conversation.)

(9:10 a.m.)

GAINES: In a perverse sort of way, I'm looking

forward to this trial.

(Other conversation; new prosecutor to be coming in.)

(9:12 a.m.)

GAINES: Well, the thing is, it didn't happen. (Referring, of course, to the non-existence of any contempt order.)

Taylor: It DID happen! (Referring to the mandamus and threats of contempt.) And, I need for you to enter written orders.

GAINES: What orders?

Taylor: All the orders you've issued this morning! Contempt. Mandamus. Silence.

GAINES: (After a reflective pause) Well, you can send draft orders, but I may or may not ever sign 'um.

(Closing conversation focused on the trial date: 17 May.)

(9:13 a.m.)

Clerk gave copies of documents to Taylor. This was the first time Taylor had seen any "complaint" relevant to this matter. It's dated but has no timestamp.

Epilog

2008 Oct. 29. Taylor and Gaines had a pleasant greeting and brief conversation. It was brief because Gaines had several clients in attendance for that morning's Docket Call.

---

**2007 May 17—Advisory panel's verdict**

JURY TRIAL

STATE OF TEXAS CITY OF HUNTSVILLE
VS WALKER COUNTY, TEXAS
DEFENDANT: ~~TAYLOR, HARMON LUTHER~~
***Harmon Luther Taylor***
CAUSE #: 213470 -01

On this May 17, 2007 ^ ***A.D.*** the Defendant in the above numbered and entitled cause appeared in Municipal Court [8] and ^ ***the court*** entered a plea of not guilty and ~~demanded~~ ^ ***set*** jury trial; and the jury, having heard the evidence and arguments, finds the Defendant:

__ NOT GUILTY of the offense of DRIVERS LICENSE - NO LICENSE
It is therefore Ordered and Adjudged by the court that the Defendant is not guilty of the offense and is discharged.

*X* GUILTY of the offense of DRIVERS LICENSE - NO LICENSE and assessed a fine of $ *100.00*

IT IS THEREFORE ORDERED AND ADJUDGED by the Court that the State of Texas, for the use and benefit of the City of Huntsville, Texas do have and recover from the Defendant the fine in the amount of $ *100.00* and Court Costs in the amount of $ *65.00*

[8] {N.B. First indication of forum type or authority. *HLT*}

The Defendant is hereby Ordered to pay the fine and costs:
X On or Before *May 28, 2007*

A twenty-five [sic] ($25.00) time payment fee will be added to any part of a fine, court costs or restitution not paided [sic] on or before the 31st day after the date of this judgment, pursuant to Article 51.921 of the Government Code.

__ Defendant must pay $ _____ by _____ and a minimum of $ _____ per month on or before the last business day of each month until balance is paid in full beginning _____.
No extensions will be granted.

__ Community Service ____ hours (proof of completion) due on or before _____.
(_____ Please check here if in lieu of fine)

__ Alcohol Awareness Course(6 Hrs)must be completed and presented to the court on or before _____. (MUST BE A STATE CERTIFIED COURSE)

__ Tobacco Awareness Course(6 Hrs)must be completed and presented to the court on or before _____. (MUST BE A STATE CERTIFIED COURSE)

__ Driver's License suspension for _____ days

Reset to (____) _____ at _____ AM / PM
Failure to appear will result in a FTA and warrant ( Court / Def / Atty )

IT IS FURTHER ORDERED AND ADJUDGED, that if the Defendant fails to comply with the orders of this judgment a CAPIAS PRO FINE WARRANT will be issued for your arrest and pursuant to Texas Transportation code, Chapter 706, you will be denied the renewal of your driver's license and additional fees [sic] until you have reached a satisfactory disposition on the outstanding violation.

May 17, 2007

*/s/ J Gaines*
Municipal Court Judge

*X* ***/s/ Harmon Taylor*** ***17 May***
Defendant Signature / Date ***AD 2007***
***without prejudice***
***without the United States***

## Appendix C—County Court

**2007 Aug. 10—First order, Notice of *Third* Arraignment, signed by Court Coordinator**

COUNTY COURT AT LAW
WALKER COUNTY, TEXAS

***ORDER***

***SETTING COURT APPEARANCE***

THE STATE OF TEXAS VS.
Harmon L. Taylor

COUNTY COURT CAUSE NO.
07-1392

MISDEMEANOR CHARGE
APPEAL/No Driver's License

DATE OF OFFENSE [1]
January 24, 2007

***NOTICE TO DEFENDANT***

You are hereby notified that the above misdemeanor case(s) is set for Arraignment [2] on the **17TH** day of **OCTOBER, 2007 at 1:30 p.m,** before the COUNTY COURT AT LAW of Walker County, Texas, located on the FIRST FLOOR, COUNTY COURTHOUSE, Huntsville, Texas.

---

[1] [N.B. HALE presumes guilt throughout. *HLT*]

[2] [N.B. Third arraignment hasn't happened, yet. *HLT*]

You are advised:

(1) If you do not appear as directed your bond will be forfeited and a warrant issued for your arrest.

(2) Your attorney must also be present.

(3) Witnesses will not be needed at this appearance.

(4) You may contact the prosecuting attorney Trey Thompson or Brian Klas at 936/435-2441 for information regarding this case and/or for plea negotiations before the actual appearance date.

***THIS NOTICE IS IN LIEU OF ALL OTHER NOTICES***

*/s/ V Byers*
Vickii Byers
Court Coordinator
Walker County Court at Law

Mailed: 8-10-07
Copies: DA
Court File

---

**2007 Sep. 21—Clerical response to Taylor's Special Appearance, Motion to Strike or Rename 17 October Setting, First Motion to Dismiss, and First Motion to Quash**

(SEAL OF THE STATE OF TEXAS)

**BARBARA HALE**

JUDGE, COUNTY COURT AT LAW

Walker County
1100 University Avenue
Suite 102
Huntsville, Texas 77340
(936) 436-4919
FAX: (936) 436-4920
wccl@co.walker.tx.us

DOLORES B. LABAY
Administrator

September 21, 2007

Mr. Harmon Luther Taylor
7014 Mason Dells Drive
Dallas, TX 75230

RE: 07-1392
Offense: Appeal—No Driver's License

Dear Mr. Taylor:

The above referenced case is set for Arraignment on October 17, 2007 at 1:30 p.m. [3] If you fail to appear a warrant will be issued for your arrest.

Sincerely,
*/s/ Dolores B. Labay*
Dolores B. Labay

---

[3] [N.B. Taylor submitted the verified motions for ruling without a hearing. *HLT*]

**2007 Oct. 17—First reset**

CAUSE NO. *07 - 1392*

STATE OF TEXAS IN THE COUNTY COURT AT LAW

VS. OF

*Harmon Taylor* WALKER COUNTY, TEXAS

## CASE RESET FORM

The undersigned acknowledges this case is reset for:

ARRAIGNMENT_____, 200____ at _____ M.

1ST PRETRIAL_____, 200____ at _____ M.

2ND PRETRIAL_____, 200____ at _____ M.

MOTIONS _____, 200____ at _____ M.

CALL DOCKET *11-28* , 200 *7* at *8:30* M. *A*

*Docket Call* [4]

JURY TRIAL *12-17* , 200 *7* at *8:00* M. *A*

→ *trial date* [5]

BENCH TRIAL_____, 200____ at _____ M.

---

DEFENDANT'S ~~**WAIVER OF ARRAIGNMENT**~~

Defendant hereby acknowledges that he/she is the

*"complaint"*

same person named in the ~~information,~~ ▼

~~waives formal arraignment~~ ***NO***

[4] [N.B. Marginal note by Taylor. *HLT*]

[5] [N.B. Marginal note by Taylor. *HLT*]

in the above entitled and numbered cause

~~and enters a plea of Not Guilty.~~ *NO*

*Harmon Taylor*
*17 Oct A.D. 2007* [6]

**DEFENDANT MUST BE PRESENT**

*/s/ Labay* [7]
Court Coordinator

*X /s/ Harmon Taylor*
Defendant
*17 Oct A.D. 2007*

(Print) Attorney for Defendant

Approved _____
Judge

(Sign) Attorney for Defendant

**DO NOT LOSE THIS FORM**

**THIS COURT WILL NOT REPEAT THIS COURT DATE TO YOU ON THE TELEPHONE.**

Telephone

*10-17-07*
Date

---

[6] [N.B. Marginal note confirming Taylor's negotiations regarding this form. *HLT*]

[7] [N.B. The circle Ms. Labay drew around her name is not reproduced, here. *HLT*]

**2007 Nov. 28—Hearing on Taylor's motions—All motions denied**

Upon recorded, evidentiary hearing, during which Taylor substantially presented his defense, the court denied all motions viva voce. *See* Tr. of 2007 Nov. 28.

---

**2007 Dec. 14—Second reset, Email follow-up to phone conversation**

Subject: Confirming Docket Call of 6 Feb 2008
From: "Harmon L. Taylor" <holmes221@earthlink.net>
Date: Fri, 14 Dec 2007 21:07:38 +0000
To: dlabay@co.walker.tx.us

14 December A.D. 2007

Ms. Labay:

Thank you for the return phone call.

I have updated my calender [sic] to show the following:

We are rescheduled for Docket Call on 6 February 2008, at 8:30 a.m. (local time) for a trial during the week of 19 February 2008.

Have a great holiday season.

Harmon L. Taylor
Dallas, Texas

---

**2008 Feb. 6--THIRD reset**

CAUSE NO. *07 - 1392*

STATE OF TEXAS
VS.
*Harmon Taylor*

IN THE COUNTY COURT AT LAW
OF
WALKER COUNTY, TEXAS

## CASE RESET FORM

The undersigned acknowledges this case is reset for:

ARRAIGNMENT_____, 200____ at _____ M.
1ST PRETRIAL_____, 200____ at _____ M.
2ND PRETRIAL_____, 200____ at _____ M.
MOTIONS _____, 200____ at _____ M.
CALL DOCKET *4-16*, 200*8* at *8:30* M. *A*
JURY TRIAL *4-28*, 200*8* at *8:00* M. *A*
BENCH TRIAL _____, 200____ at _____ M.

---

~~DEFENDANT'S WAIVER OF ARRAIGNMENT~~

*HLT 6 Feb*
*A.D. 2008*

Defendant hereby acknowledges that he/she is the same person named in the information, waives formal arraignment in the above entitled and numbered cause and enters a plea of Not Guilty.

**DEFENDANT MUST BE PRESENT**

*/s/ Labay*
Court Coordinator

*/s/ Harmon Taylor*
Defendant

*6 Feb*
*2008*
*A.D.*

(Print) Attorney for Defendant

Approved _____
Judge

(Sign) Attorney for Defendant

**DO NOT LOSE THIS FORM**

Telephone

**THIS COURT WILL NOT REPEAT THIS COURT DATE TO YOU ON THE TELEPHONE.**

*2-6-08*
Date

**2008 Apr. 28—FOURTH reset**

CAUSE NO. *07 - 1392*

STATE OF TEXAS IN THE COUNTY COURT AT LAW

VS. OF

*Harmon Taylor* WALKER COUNTY, TEXAS

## CASE RESET FORM

The undersigned acknowledges this case is reset for:

ARRAIGNMENT_____, 200____ at _____ M.
1ST PRETRIAL_____, 200____ at _____ M.
2ND PRETRIAL_____, 200____ at _____ M.
MOTIONS _____, 200____ at _____ M.
CALL DOCKET *6-11-08* , 200 *8* at *8:30 A* M.
JURY TRIAL *6-23-08* , 200 *8* at *8:00 A* M.
BENCH TRIAL _____, 200____ at _____ M.

---

DEFENDANT'S WAIVER OF ARRAIGNMENT

*HLT*
*28 Apr A.D.*
*2008*

Defendant hereby acknowledges that he/she is the same person named in the information, waives formal arraignment in the above entitled and numbered cause and enters a plea of Not Guilty.

**DEFENDANT MUST BE PRESENT**

/s/ *Byers* [8]
Court Coordinator

/s/ *Harmon Taylor*
Defendant
*28 Apr AD 2008*

(Print) Attorney for Defendant

Approved _____
Judge

(Sign) Attorney for Defendant

**DO NOT LOSE THIS FORM**

Telephone

**THIS COURT WILL NOT REPEAT THIS COURT DATE TO YOU ON THE TELEPHONE.**

***28 Apr 2008***
Date

---

[8] [N.B. *See* 10 Aug 2007 "Order," ***Third*** Arraignment, *supra.* C-1 to C-2. *HLT*]

**2008 Sep. 9—FIFTH reset**

COUNTY COURT AT LAW
WALKER COUNTY, TEXAS

***ORDER***

***SETTING COURT APPEARANCE***

THE STATE OF TEXAS VS.
Harmon Luther Taylor

COUNTY COURT CAUSE NO.
07-1392

MISDEMEANOR CHARGE
APPEAL/No Driver's License

DATE OF OFFENSE [9]
01-24-07

***NOTICE TO DEFENDANT***

You are hereby notified that the above misdemeanor case(s) is set for **DOCKET CALL October 29, 2008 at 9:00 a.m. and JURY TRIAL November 17, 2008 at 9:00 a.m.,** before the COUNTY COURT AT LAW of Walker County, Texas, located on the FIRST FLOOR, COUNTY COURTHOUSE, Huntsville, Texas.

You are advised:

(1) If you do not appear as directed your bond

---

[9] [N.B. HALE, via LABAY, is arguing STATE's case. *HLT*]

will be forfeited and a warrant issued for your arrest.

(2) Your attorney must also be present.

(3) Witnesses will not be needed at this appearance.

***THIS NOTICE IS IN LIEU OF ALL OTHER NOTICES***

*/s/ Dolores B. Labay*
Dolores B. Labay
Court Coordinator
Walker County Court at Law

Mailed: 09-09-08
Copies: DA
Court File

---

**2008 Oct. 29—SIXTH reset**

CAUSE NO. *07 - 1392*

STATE OF TEXAS IN THE COUNTY COURT AT LAW

VS. OF

*Harmon Taylor* WALKER COUNTY, TEXAS

## CASE RESET FORM

The undersigned acknowledges this case is reset for:

ARRAIGNMENT_____, 200____ at _____ M.
1ST PRETRIAL_____, 200____ at _____ M.
2ND PRETRIAL_____, 200____ at _____ M.
MOTIONS _____, 200____ at _____ M.
CALL DOCKET *1-7*, 200*9* at *9:00 A* M.
JURY TRIAL *1-26*, 200*9* at *9:00* M. *A*
BENCH TRIAL _____, 200____ at _____ M.

---

~~DEFENDANT'S WAIVER OF ARRAIGNMENT~~

*29 Oct 2008*

Defendant hereby acknowledges that he/she is the same person named in the information, waives formal arraignment in the above entitled and numbered cause and enters a plea of Not Guilty.

**DEFENDANT MUST BE PRESENT**

/s/ *Labay*
Court Coordinator

/s/ *Harmon Taylor*
Defendant
*HARMON L. TAYLOR*

(Print) Attorney for Defendant

Approved _____
Judge

(Sign) Attorney for Defendant

**DO NOT LOSE THIS FORM**

Telephone

**THIS COURT WILL NOT REPEAT THIS COURT DATE TO YOU ON THE TELEPHONE.** *29 October 2008*
Date

**2009 Feb. 2—Notice of Warrant for Arrest**

Subject: Cause No. 07-1392
From: Dolores Labay <dlabay@co.walker.tx.us>
Date: Mon, 2 Feb 2009 12:03:59 -0600
To: 'holmes221@earthlink.net'
<holmes221@earthlink.net>

**Mr. Taylor –**

**Judge Hale has signed a Failure to Appear Warrant for your arrest for failing to appear for Jury Trial on January 26, 2009 at 9:00 am.**

**New bond on the above case is $200.00.**

**Thanks,**

***Dolores B. Labay***
Court Administrator
Walker County Court At Law
1100 University Ave., Ste. 102
Huntsville, TX 77340
936-436-4900 ext 4802
dlabay@co.walker.tx.us
wccl@co.walker.tx.us

*THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. If the reader of this message is not the intended recipient, or*

*the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, forwarding or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by e-mail or telephone and delete the original message immediately. Thank you.*